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Chair: Kimble Sutherland
Clerk: Todd Decker

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Le mercredi 12 décembre 1990

Comité permanent des règlements et des projets de loi d'intérêt privé

Président : Kimble Sutherland
Greffier : Todd Decker

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 12 December 1990

The committee met at 1016 in committee room 1.

The Chair: I am going to call this meeting to order. Just for everyone's information, Ron Hansen, the member for Lincoln, is substituting for Ellen MacKinnon today, and we are very pleased to have Bernard Grandmaître filling in for Liberal member Frank Miclash.

CITY OF WINDSOR ACT, 1990

Consideration of Bill Pr21, An Act respecting the City of Windsor.

The Chair: Our first order of business today is Bill Pr21, An Act respecting the City of Windsor. Could Mr Lessard and the sponsors come forward. Could Mr Lessard say a few words as sponsor of it and have the applicants introduce themselves for the purpose of Hansard.

Mr Lessard: Good morning, Mr Chair and members of the committee. On my immediate left is the city solicitor from the city of Windsor, Al Kellerman, and on his left is the city clerk from Windsor. His name is Tom Lynd.

This is An Act respecting the City of Windsor. It affects the licensing commission in the city. The long and short of the act really is to change the number of members on the commission from three to a number including three or more members. If there are any questions with respect to the act or that change, Mr Lynd is happy to answer any questions that you may have.

The Chair: Are there any further comments from the applicants themselves?

Mr Kellerman: I might point out that the city of Windsor licensing commission was originally established in 1988 by way of private legislation, and what is before this committee is that same bill, save and except for a change in the composition of the number of members of the commission; namely, from three to three or such greater number of members as the city council may wish to appoint. That is the sole change from the prior private legislation, which was previously granted in 1988.

The Chair: Any comment from the parliamentary assistant?

Mr Ferguson: I have no concerns.

The Chair: Questions from committee members to the applicant?

Mr J. Wilson: Just really a curiosity question more than anything, to satisfy perhaps Mr Halas's comments in his letter. Does the council of the city consider consulting with the public in any way when it makes the appointments, or do you have a citizens' group that—

Mr Lynd: City council does advertise vacancies for all of the committees and commissions and any interested person has an opportunity to put his or her name forward with an application and then city council ultimately makes the decision on who is appointed to commissions.

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Mr Halas basically appeared before the previous licensing committee, which was a predecessor of the commission established in 1988. His basic concern was in respect of obtaining a licence as a mechanical contractor in the city and his difficulty was that he was not able to pass the testing procedures that are required for a licence, etc, in terms of demonstrating his expertise in the trade in the field.

The Chair: Any further questions for the applicants from committee members? Are there any objectors or interested parties? Seeing none, any further statements or questions? Are the members ready to vote on this?

Sections 1 to 10, inclusive, agreed to.

Preamble agreed to.

Title agreed to.

Bill ordered to be reported.

GODERICH-EXETER RAILWAY COMPANY LIMITED ACT, 1990

Consideration of Bill Pr22, An Act respecting Goderich-Exeter Railway Company Limited.

The Chair: Our next order of business is Bill Pr22, An Act respecting Goderich-Exeter Railway Company Limited. The sponsor of the bill is Mr Klopp. Could we have the applicants introduce themselves for the purpose of Hansard.

Mr Klopp: This is Carol Pennycook. She is from the firm of Davies, Ward & Beck and is acting as counsellor for ScotiaMcLeod. Basically this bill is to allow this private company to run a railroad from Exeter to Goderich and then a line up to Stratford to take over from the CN. They are buying it from CN. I will now turn it over to Carol Pennycook to explain those purposes.

Ms Pennycook: We act for ScotiaMcLeod Inc, which has acted as financial advisers to CN in connection with the proposed disposition of the short line that Mr Klopp has mentioned. Under the Railways Act of Ontario, in order for a corporation to operate a railroad, it must be deemed to be incorporated by a special act, even though it has been incorporated under the Business Corporations Act of Ontario.

The deemed incorporation by special act, which is the bill for which we are applying, does not in any way eliminate or bridge the need for all other provincial and federal approvals in connection with the operation of a railway. What we are applying for is really the technical qualification and does not relate at all to the regulatory qualifications. The Legislature has granted a number of private bills in this regard in the past.

CN and the proposed acquirer, Railtex Inc, have both confirmed to the Ministry of Transportation for the province their understanding of and their intention to comply with employment standards in connection with the disposition of the short line. In the case of CN, it is subject to collective agreements and employment agreements which it of course intends to honour.

CN and Railtex have both had meetings with Perth and Huron county officials, which is the area in which the short line is located, to respond to their questions and to advise them of their intentions with respect to the operation of the short line, assuming all regulatory approvals are acquired. The city of Stratford has indicated that it supports the application. All of those municipalities indicated to CN and Railtex that they had no objection to the disposition. I understand that Mr Klopp has also had discussions with those parties. We do have minutes of a meeting that Railtex and CN were at, which have been provided to us by those officials, which we can make available to the committee if it would be of assistance to you.

We understand that the Ministry of Transportation for Ontario is generally supportive of the short line business philosophically, and we also understand that the Ministry of Transportation does not object to this particular transaction. We have asked Wilf Walker, who is a senior officer with the Ministry of Transportation, to be in attendance today—and he is this gentleman on my left—to respond to any questions you might have in that regard. We also have available senior officials of CN to respond to any questions you might have of them in this regard.

Unless you have any questions, that would be my submission.

The Chair: Comments from the parliamentary assistant.

Mr Ferguson: Mr Chairman, the bill does not affect the interests of any municipality.

The Chair: Questions from committee members to the applicants?

Mr J. Wilson: It is a little hard to sort out the compendiums here in the letters from the Ontario Midwestern Railway Co Ltd and the Victoria County Railway Co. Ltd. If I am reading them right, these are really just jurisdictional matters that they are questioning, whether the province has the right to enact the corporation.

Ms Pennycook: We actually have not been provided with copies of their submissions. We have been in touch with Kristine Curtin, who is the sole director and sole shareholder of Victoria County. She has advised us that she is interested generally in the application but does not object to it.

Ontario Midwestern, to our knowledge—I do not honestly know if it is an objector or not. When we spoke to them about other matters they had not indicated to us that they objected. They do not operate in this area. This short line is for business purposes. The transportation on this route is primarily salt and fertilizer. My understanding of Ontario Midwestern is that it is more a recreational-type railway operating in a different area and we would not anticipate that there would be any potential conflict between the two because the businesses are quite different.

The Chair: Any further questions? Objectors or interested parties?

Mr Bowers, would you care to come forward? If you could just formally introduce yourself for Hansard purposes.

Mr Harris: My name is John Harris and I am a director of the Ontario Midwestern Railway Co Ltd. Mr Bowers is here with me.

We submitted a letter to the standing committee, and I understand that copies were forwarded to CN, which outlined our concerns with regard to this particular act. About a year ago, our company appeared here at the Legislature and we were granted at the time Bill Pr45, An Act respecting the Ontario Midwestern Railway Company Limited. We are concerned about three points principally.

One is that the currently proposed act is essentially a verbatim repeat of our act, Pr45. There are concerns that the Goderich-Exeter Railway, given the outline that Ms Pennycook has given of its intentions and the nature of its operation, rather than being defined as a locally based, regional railway system, which is what our act describes and what, because it is identical, its act describes, should be described as a track-system-specific—that is, Goderich to Stratford and Exeter—freight-based line and that this is what it is proposing to operate.

The second concern is the question of whether it is appropriate for this railway—that is, the Goderich-Exeter—to be incorporated as a provincial railway. We would respectfully draw to your attention the case of the Central Western Railway Corp, which because it is essentially carrying on the movement of federally subsidized product—that is, grain—within a federal distribution system as a supplier to CN, has been deemed to be a federal railway under federal jurisdiction. We are concerned that the Goderich-Exeter could likewise be construed to be a federal undertaking, essentially a captive switching railway operation service to CN, a federally regulated railway.

We are very concerned about this because we feel that the future of a balanced transportation system in Ontario depends on the successful development of short-line and regional rail in Ontario, and the creation of a railway at this time which falls into the grey area between federal and provincial jurisdiction could seriously jeopardize those railways such as ourselves which are clearly provincial railways and create a number of regulatory and other difficulties for the successful development of regional and short-line rail in Ontario.

1030

The comments that Ms Pennycook made with regard to the nature of Ontario Midwestern's operation are not entirely accurate. Ontario Midwestern's proposal, which is now before the National Transportation Agency, is for a freight-based, not a recreational railway that would provide service on a regional basis throughout the region, including areas immediately adjacent to and in effect economically part of the same region that is to be served by this railway.

We have no objection to the creation of a short-line rail operation. Indeed, we have been active promoters of exactly this kind of approach for the Goderich and Exeter lines, but we are concerned about the danger to the successful development of regional and short-line rail in Ontario that is posed by the possible incorporation of the Goderich-Exeter as a provincial railway when jurisdictionally it may well be deemed to be more appropriate to incorporate it under an act of the federal Parliament as a federal railway, part of the federal distribution system.

The Chair: Are there any questions or comments for the objectors to this bill?

Mr O'Connor: In respect to some of the trackage and so on that you are concerned about, is in fact some of the track linkage that you are trying to get from the National Transportation Agency some of the same track or the same catchment? Can you explain that a little bit maybe?

Mr Harris: Yes. Ontario Midwestern Railway has been derived from the activities of a public interest group. That interest group, Project Rerail, has worked for over 12 years encouraging the development of alternative rail service in the region, given that CN and CP have both for many years expressed the desire to cease providing service in that area. The Ontario government in 1988 provided funding for a study of business opportunities for rail service in that region in response to Project Rerail's proposals. At that time there were no other proponents of regional rail service, and Project Rerail's proposal and the study conducted by Peat Marwick did deal with the lines that are included in the Goderich-Exeter Railway.

Ontario Midwestern was a bidder in the first round for the Goderich and Exeter lines. We were not successful. We ran into a financing difficulty in that some committed financing was not there when it was needed at the 11th hour and we were not successful in making it into the second round. We have gone back, acknowledging that another bidder would be successful on the Goderich and Exeter, and have recast our regional rail system, knowing that this entity would be created as a short line. We are pursuing that plan, which does not include the Goderich and Exeter lines, but would include providing service ultimately through the Newton subdivision into Stratford from the Bruce county and Grey county area as one part of the larger regional system that is proposed.

So we are not discussing a competitive operation. The business plan that we have developed, and the prospectus is almost complete for a financing of that, does not involve the trackage that is the subject of this application. Part of our concern is that this application is not specific about its trackage. We have, however, an application before the NTA for trackage rights that do include the trackage that is under consideration, and the trackage rights are the rights to operate on that trackage.

Mr J. Wilson: I am quite familiar with Project Rerail and Mr Bowers's correspondence, having been with Perrin Beatty, for instance; I was his assistant for several years. What exactly are you asking of the committee today on behalf of Project Rerail? I have not quite got it in a nutshell.

Mr Harris: I think we are asking the committee, before recommending this bill to the Legislature, to conduct a thorough investigation as to whether indeed it is appropriate to carry through with provincial incorporation of the proposed Goderich-Exeter line or whether it ought to be carried through as a federal incorporation.

Mr J. Wilson: What would our legislative counsel have to say about that?

Ms Mifsud: I am not able to help you with the appropriateness of incorporating under one jurisdiction as opposed to the other. What I can tell you is that the application and the bill are within the constitutional competence of the Ontario Legislature.

Ms Pennycook: May I respond?

The Chair: Yes.

Ms Pennycook: I would like to comment on a couple of items. We agree that the wording of our bill is substantially the same as the wording of the private bill respecting Ontario Midwestern Railway Company. Indeed, it is virtually identical to the private bill regarding South Simcoe Railway Heritage, Port Stanley Terminal Rail Inc, Victoria County Railway and other companies which have been incorporated by private bill, for the reasons I have said. Under the Railways Act you must be deemed to be incorporated by special act.

We believe it is appropriate to comply with the Railways Act by having a private bill to deem it to be incorporated by special act for compliance. It is not outside the realm of possibility to have federal incorporation. The short line is located solely in Ontario. No borders are crossed. This application will not in any manner eliminate the requirement for the company to go to the NTA and obtain its federal approvals regarding trackage, just as it does not eliminate any requirements to obtain provincial regulatory approvals with respect to operating matters. We feel that it is very appropriate to comply with the Railways Act through a private bill, given that this is located solely within the jurisdiction and does not eliminate any kind of need to obtain federal approvals.

The Chair: I wonder if we could have a few comments from the Ministry of Transportation.

Mr Walker: Our chief concern here is the safety of the operation and the safety of the infrastructure. Sections 4, 5 and 6 cover our requirements here. There will be a further proceeding with the Ontario Municipal Board concerning licensing of the operation. We will comment to the board on the basis of the inspections made.

The Chair: Are there any further questions or comments at this time? Do we have another objector or interested party? Could you come forward, take a chair and then introduce yourself for Hansard.

Mr White: My name is Ken White. I am regional manager of planning administration with Canadian National. I want to assure the committee that we have already approached the National Transportation Agency and we will make full application to it for permission to conduct this transaction in its completeness. Before that body, which is very well staffed and everything, as you well

know, there is plenty of opportunity for interested parties to investigate and consider what jurisdiction this thing should fall under, and the confidence of the purchasing party and all things of that nature. I just thought it might be worth putting that on the record.

The Chair: Are the members ready to vote on this?

Sections 1 to 9, inclusive, agreed to.

Preamble agreed to.

Title agreed to.

Bill ordered to be reported.

1040

CITY OF VANIER ACT, 1990

Consideration of Bill Pr30, An Act respecting the City of Vanier.

The Chair: Our next order of business is Bill Pr30, An Act respecting the City of Vanier. Mr Grandmaître is the sponsor, if he could come forward along with the applicants.

Mr Grandmaître: This morning I am subbing and I am also the sponsor of Bill Pr30. I am also a part-time janitor in this place when I am not too busy.

Bill Pr30 was first introduced back in June of last year and somebody in my party called an election so it died on in Orders and Notices. We are back before you this morning to present you with Bill Pr30. On my left is the chief administrative officer for the city of Vanier, Daniel Ouimet. Basically, Bill Pr30 encompasses two municipal bylaws, bylaw 2959 and bylaw 3007. The total sum of the bylaw is $1.8 million. I will let Mr Ouimet fill you in on the total dollars of these two municipal bylaws encompassing Bill Pr30.

Mr Ouimet: I think you all have the explanatory note that was sent with the proposed legislation. It is mainly a procedural problem in this case here. The bill will not give the city of Vanier or the regional municipality of Ottawa-Carleton any additional power that we would not have had if we had followed the proper channel, but since the procedure is established by statute and was not followed at the time, the only way to get the approval to finance these capital expenditures is with another statute. That is why we asked for the introduction of Bill Pr30.

Just for your information, it was well published in the local newspapers so the population is aware of the introduction of this bill. They are also aware of the total debt at this point. I think it is important to mention here that in 1980 the net long-term debt of the city of Vanier was $6 million. It is going to be, including this additional debt here, less than $3 million in 1993, so I think the city is in quite good shape, but we have to correct, legally speaking, the lack of procedure, which was not followed in the past.

The Chair: Comment from the Ministry of Municipal Affairs?

Mr Ferguson: We support the bill. It just corrects an administrative oversight. Normally when a city council debentures dollars it gets approval from the Ontario Municipal Board. For some reason, this did not happen this time around for the city of Vanier. We have no difficulty at all.

The Chair: I believe this request went before the municipal board and it is the practice of this committee to have the clerk read the report into the record. I would ask Mr Decker to do that at this time.

Clerk of the Committee: This is a report of the Ontario Municipal Board dated 4 December 1990, signed by Carolyn Fenn, manager of planning and municipal finance.

"I hereby report, on behalf of the board, with respect to proposed Bill Pr30.

"As reported in Mr Malcolm's letter to you of July 19, 1990, the board is satisfied that the bill is sought to correct an administrative oversight, and is not indicative of financial difficulties in the municipality.

"The city has sufficient outstanding debt capacity, according to the board's formula, to accommodate the debt incurred. Had the requisite applications been filed with the board, it is unlikely that hearings would have been required, given the nature of the projects involved.

"The board would have no objection to the passage of the proposed legislation, and no changes are suggested. Once advised of the bill's passage, we will adjust our financial records so that the debt incurred is reflected in our ongoing debt capacity calculation for the city of Vanier.

"I trust this is the information you require. If I can be of further assistance, please call."

This letter is addressed to the Clerk of the House.

The Chair: Are there any questions from committee members to the applicants? Seeing none, are there any objectors or interested parties at this time? Are the members ready to vote on this?

Sections 1 to 5, inclusive, agreed to.

Schedule agreed to.

Title agreed to.

Preamble agreed to.

Bill ordered to be reported.

CITY OF TORONTO ACT, 1990

Consideration of Bill Pr32, An Act respecting the City of Toronto.

The Chair: Our next order of business is Bill Pr32. Ms Churley is sponsoring the bill and Ms Churley and the applicant are here.

Ms Churley: Good morning, ladies and gentlemen, I am glad to see everybody looking so bright-eyed and bushy-tailed this morning. I am here sponsoring Bill Pr32, An Act respecting the City of Toronto. I would like to introduce to you Pat Foran, solicitor from the city of Toronto.

Mr Ruprecht: She is well known to all of us.

Ms Churley: I am sure she is. She is an old colleague of mine at city hall, of course. It is a fairly technical bill, so I will just hand the floor over to Pat.

Ms Foran: I think Bill Pr32 can properly be called a technical bill. Its history is as follows. The city of Toronto has had over the years various pieces of special legislation

enabling council to pass bylaws pertaining to a great number of matters of importance to the city. Special legislation over the years before 1980 provided that the city's bylaws passed pursuant to such special legislation could contain a penalty provision allowing, upon conviction, a maximum fine of $1,000 for a breach of any such bylaw.

In 1982 the Legislature amended the Municipal Act in such a way that bylaws passed by the councils of all municipalities could provide for a maximum fine of $2,000, and this left a discrepancy back in 1982. The city's legislation provided for a $1,000 maximum fine and the Municipal Act provided for a maximum fine of $2,000.

The city obtained special legislation in 1983 which provided that where under any special act the city could pass a bylaw imposing a maximum fine that was less than the maximum fine imposed under the Municipal Act, the Municipal Act would apply notwithstanding the special act. Therefore, the same maximum penalty applied in our special legislation as in the Municipal Act.

That solved the problem for a number of years, but on 31 March 1990 the Provincial Penalties Adjustment Act came into force and, among other things that act removed from the Municipal Act the penalty section relating to maximum fines and provided in section 62 of the Provincial Offences Act that every person who is convicted of an offence is liable to a fine of not more than $5,000 except where otherwise expressly provided by law. That left the city of Toronto with its special legislation which provided for fines of not more than $1,000.

The city then made application to the then Minister of Municipal Affairs and asked for an amendment to general legislation to cover the situation. However, the minister replied that he did not feel an amendment to the Municipal Act was the route to take, but he did advise that, "If the city were to pursue special legislation for the purpose, such special legislation would be given serious consideration." That is why we are here today on Bill Pr32.

1050

Basically, what Bill Pr32 says is that where the city has power to enact a bylaw under any special act which provides for a maximum penalty that is less than the maximum penalty provided in the Provincial Offences Act, the bylaw may provide for the maximum penalty as set out in the Provincial Offences Act. This can be in a separate bylaw if council so chooses.

As well, similar to the 1983 special legislation, which is to be repealed, the other penalty and enforcement provisions of the Municipal Act will continue to apply to the city's bylaws passed under its special legislation.

It is for the foregoing reasons that I am here today on Bill Pr32. I understand that the staff from the various ministries do not object and I respectfully request that your committee move to report the same to the Legislature in the form before you today as Bill Pr32.

The Chair: Comments from the Ministry of Municipal Affairs?

Mr Ferguson: No objections. Committee members are not going to be tested on this, by the way.

The Chair: Questions from committee members to the applicant or Municipal Affairs?

Mr Ruprecht: Ms Foran, could you tell this committee what kind of penalties you would impose? Give us an example.

Ms Foran: The bylaw will set out the maximum of $5,000 if this legislation is passed. That is what the bylaw will set out. We do not, of course, levy the fine. That is the courts. I cannot comment on that.

Mr Ruprecht: You cannot, can you?

Ms Foran: No, I cannot.

The Chair: Further questions? Seeing none, are there any objectors or interested parties at this time? Are the members ready to vote on this?

Sections 1 to 4, inclusive, agreed to.

Title agreed to.

Preamble agreed to.

Bill ordered to be reported.

LORDINA LIMITED ACT, 1990

Consideration of Bill Pr45, An Act to revive Lordina Limited.

The Chair: The next order of business is Bill Pr45, An Act to revive Lordina Limited. Mr Eves is the sponsor. Perhaps he would come forward and we could have the applicants introduce themselves for Hansard.

Mr Sooley: My name is Daniel W. Sooley and I am here on behalf of the applicant.

Mr Eves: It is a pleasure to be here this morning. Mr Sooley is a solicitor with the firm of Smith, Lyons. I believe this to be a relatively simple matter, I hope—famous last words—of reviving this corporation.

Mr Sooley: This is a corporation that was incorporated under the Business Corporations Act as a wholly owned subsidiary of an existing corporation. This corporation was used to refurbish and redevelop a building in Vancouver, British Columbia, in the early 1970s. This corporation was contracting with a number of various contractors and architects who put up the building and refurbished it. Part of the contract was to fireproof the building and the contract called for fireproofing which did not contain asbestos. At the end of the day, it turned out there was asbestos, but this was not discovered until about two or three years ago.

Litigation was commenced to recoup the loss in removing the asbestos and at the time that the litigation was commenced the sub had been dissolved. All the rights, title and interest that the sub had to the building had been passed up to its parent and we are now in the process of proceeding to trial. At a late stage a defence was raised by one of the defendants that the contracts could not be properly assigned because the sub had been dissolved, so we are here today to put the sub back in good shape.

The Chair: Comments from the government or legal counsel?

Ms Hopkins: I am advised that the government has no objections.

The Chair: Any questions for the applicant? Seeing none, are there any objectors or interested parties? Seeing none, are the members ready to vote on this?

Mr Ruprecht: I want you to know we are supporting this because of Mr Runciman.

Sections 1 to 3, inclusive, agreed to.

Title agreed to.

Preamble agreed to.

Bill ordered to be reported.

RESTOULE SNOWMOBILE CLUB ACT, 1990

Consideration of Bill Pr9, An Act to revive the Restoule Snowmobile Club.

The Chair: Mr Eves is the sponsor of this one. The applicants can introduce themselves.

Ms Evans: I am Jean Evans, secretary of the Restoule Snowmobile Club.

Mr Eves: If I might, just briefly, Restoule, for those of you who have the privilege of visiting it, is a very pretty area of Ontario near the south shore of Lake Nipissing. Snowmobiling activity being what it is these days, not only is it a recreational and tourism aspect but a somewhat important aspect of the economy in that part of northern Ontario.

Ms Evans: Our application is to revive or reinstate Restoule Snowmobile Club, which was dissolved 8 September 1982 for non-compliance in reporting, I believe. I became secretary in January 1990 and applied to have the club reincorporated. It is necessary for us to have it reincorporated to belong to the Ontario Federation of Snowmobile Clubs, which we have now joined. That is basically what the whole application is about.

Mr J. Wilson: Is this a fairly large club?

Ms Evans: We are just starting from the base again, aiming for 100 members.

Mr Ruprecht: Is Ernie a member of your club?

Ms Evans: Not yet. I hope so.

Mr Eves: I have no conflict of interest.

Ms Hopkins: I am advised that the government has no objections to the bill.

Sections 1 to 3, inclusive agreed to.

Title agreed to.

Preamble agreed to.

Bill ordered to be reported.

WOLFE CONSORTIUM
FOR ADVANCED STUDIES INC ACT, 1990

Consideration of Bill Pr46, An Act respecting the Wolfe Consortium for Advanced Studies.

The Chair: The sponsor of this bill is Mr Runciman. He will be here in just a minute. Here he is: perfect timing. Will the applicants introduce themselves for the purpose of Hansard?

Mr Runciman: I am Robert Runciman, the MPP for Leeds-Grenville. I am sponsoring the bill.

Dr Anderson: My name is Dr Anderson. I am president of the consortium named in the bill.

The Chair: Mr Runciman, would you like to make a short statement as sponsor?

Mr Runciman: I do not have any formal statement. I would simply like to indicate that I think this is a worthwhile venture. Certainly it is something new to Ontario, but I assume Dr Anderson will be talking about some of the people who are very supportive of this. Some of the members, I gather, sat with a lady a few years ago who is a strong supporter of this legislation. She was the former Minister of Colleges and Universities, Bette Stephenson. I wanted to put that on record, based on the fact that I understand the ministry is not supportive of the legislation. I wanted to indicate clearly that a former well-respected minister of that particular ministry is indeed supportive.

Dr Anderson: Last January Premier Rae said: "My experience has taught me one thing. The best way to make an argument, to make a case, to convince anybody, is to tell a story." My story is a little longer than your previous ones because this is a very contentious issue in academic circles, as Mr Runciman has just indicated to you.

My job is to convince you to pass this bill. The story is a 20-year-long story of lack of co-operation from the provincial government here in Ontario, preventing my group from helping to train and educate a few students—few in comparison with the great university across the way there—and its suppression of our collective academic freedom to do this in our own way, that is, a private way which is different from the public universities, as most of you will be aware.

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First, I have to thank those who have co-operated: Mr Runciman, for his kindness in sponsoring this bill; Ms Freedman, who is still here, the previous clerk of your committee now replaced by Mr Decker and Mrs Marshall, who have been most helpful to me; Miss Rowe, who I guess is not here, legal counsel of the Ministry of Colleges and Universities, I thank for her courtesy. I thank especially legislative counsel, Ms Hopkins, at the head table, whose ingenuity produced the bill before you. I think it is, subject to her further advice, the shortest bill that has ever been submitted to this House, one of the shortest certainly.

So here is my high road that I am presenting you with. In our conclave this morning, we are witnesses to what I submit to you is a signal and solemn moment in the life of our nation: confirmation of the founding of a new university. I have to tell you that it is a very small number of people who agree with me in making that submission to you; in university circles, I mean. My colleagues and I have spent nearly five years to bring us to this singular point this morning. As an academician, I have spent 60 years preparing my mind for this day—talk about the mountain producing a mouse, eh?—and 20 years on the project. It was 20 years ago, in Mr Auld's time, the Minister of Colleges and Universities of the day, when I first made the proposal which was turned down. So it is 20 years, as I say, that we have been labouring on this matter to get provincial support; similarly for my colleagues, some of whom are back here with me.

We are intellectually strong, but politically extremely weak, of course. By contrast, you chaps have the great powers of your office. At the end of this proceeding, if you signify to the chairman your support of the bill, you can cause Wolfe University to be in existence. In that respect, you would join your predecessors who caused the great university over there to be. I am challenging you to do this, because most people do not have any idea of what is involved as a grand gesture to mankind in starting a university, at least very few whom I meet.

By doing this simple act, you can be listed among the world's most important patrons of knowledge. In ancient times there were Pythagoras, Plato and Aristotle, who invented the idea of the university. You are following in their steps. In medieval times it was the popes, kings and emperors who started the great European universities of that time. In modern times we have had John Harvard, Elihu Yale, Leland Stanford, John Rockefeller and—most of you will be surprised to know—Margaret Thatcher. So you have joined that great company if you raise your hands in support of me.

In Canadian university annals you follow Bishop Strachan, who started that university there and another one besides, Trinity University; the intrepid pioneers at Waterloo, who did a marvellous job not so long ago; William Davis, who is probably the greatest university-maker ever in this country; and Arthur Margison and his two associates, who started York University. For those of you who are interested in history, York should have been called Arthur's University; they were all named Arthur. Dr Margison is one of our honorary fellows, still with us, fortunately.

I want to paint for you the picture we see and the reason we are going to all this fuss in the face of the objections from the government for this proposal. You may not agree with this, of course, but this is our position—my position certainly.

Your decision this morning is being made in the context of unprecedented racial, religious, economic, legal and technical strife in Canada. Mr Simpson wrote last week in the Globe and Mail that these are not normal times, for the sad but essential reason that the country is in crisis over its existence, whether all citizens yet recognize it or not. That is in every paper we read. Here is the point he makes that I want to report to you: "Everywhere the cry resounds that the country needs leadership." My colleagues and I are before you to volunteer our intellectual leadership to help cultivate the young minds Canada needs to save it from continuing its political, economic, technical, legal and moral decline.

I keep pointing to the great institution across the road, for which I worked for 30 years and from which I graduated. My colleagues there in mathematics and physics—my own fields—tell me about the rapid decline in just the past two years added to the slower decline over the past 20 years in the qualifications of students seeking admission there. They are not stupid, but they are poorly qualified in comparison with those of your age group.

Such men as Mr Vice, president of Northern Telecom, and Mr McCamus, the president of Xerox, keep urging, and I mean repeatedly, in the papers and in their speeches, the Canadian intellectual community to do something about our dreadful state in technology. Of course, they are referring not to the whole spectrum of university work; they urge us to do something about Canada's technological decline.

We are here to challenge the Legislature to pass this bill, which is the tool we need to do the job the science council, Mr McCamus, Mr Vice and others say must be done in the universities. Now, do not think we have an inflated idea of our capacities. I said "to help." It has taken a century and a half for the University of Toronto to get where it is, and it will be a long time after my death until Wolfe gets anywhere by comparison. However, we can start to help.

Unfortunately, as I said at the beginning, this offer of ours has not been warmly received with reciprocal offers of co-operation from government—all parties, going back to Mr Robarts's and Mr Davis's day—or from industries—not just government—or the public universities, with one exception, I am pleased to say, and that is the University of Toronto library, which is the single exception. Instead, I have to plead with you in an adversarial atmosphere, the necessity of which we deeply deplore. So if you think, Mr Chairman, that I am taking a hard line, that is the reason for it, because it has been 20 years of unsuccessful struggle.

I am asking you chaps this question. I do not understand it at all. Why, in the extremis of a host of Canadian national and local problems, do not our opponents inside and outside the government say instead: "Welcome aboard. Let's see what you can do to help"? That is all we are asking, to get our foot aboard. If we fail and go overboard and sink, so be it.

From that elevated survey of the position of a new university of this nation, I have to address the grubby, granular technicalities of the bill itself. It goes back 27 years to the informal proclamation in your House by Mr Robarts, the so-called—I call it—infamous Robarts policy; not a regulation, not a law, just an informal statement. This policy of prohibition is unfair and discriminatory. It is not just us saying that. Dr Fernhout over there from the Institute of Christian Studies down the way is chairman of our coalition on freestanding, university-level institutions, and there are representatives of another member of that coalition here. If we disagree about other things, we agree on the fact that this Robarts policy is unfair and discriminatory and that no person with a fair mind would tolerate it for a moment, but it has been tolerated in this province for 27 years.

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It is also in conflict with the spirit of our time, which is redressing, as all of you know far better than I, all sorts of abuses of minority rights. We fellows of Wolfe are a tiny minority whose rights have been abused, and we are invoking that spirit of the time to protect us from continued abuse, which you have the power and authority to alleviate.

I come to you this morning considering the Legislature, as I always have done, as the high court of the

province. Therefore, I regard your committee as a representative panel of the full court. I call the Legislature, and therefore you, a court of equity. Courts of equity go back to the Middle Ages. In a court of equity you seek, and I seek from you, natural justice. Not legal justice, not positive justice—just ordinary, simple justice. I ask from you a fair shake; I request from you redress of the inequity of the Robarts policy which has prohibited our business for 20 years. I call that a restraint of trade in economic terms. The Robarts policy established a monopoly, and we reject the equity of that monopoly in the public universities. So you, Mr Chairman, by my view are the judge of this court of equity and these are the jurors alongside you.

The government has already taken, in just the last period, five years to consider repeal of the Robarts policy. It was referred five years ago to the advisory body. Still no answer. Therefore, you may think the basis for this bill is complex—it would be natural if you did—and not fit for me to try to debate it with you in a few minutes instead of the five years which it has taken them to do it. So I will simplify it for you as much as I can in Wolfe's case—not in the case of the other institutions, which have their own cases to make, of course.

First is a legal issue and second is a moral or ethical issue. Half of the lawyers in our country are always wrong, of course. Since I am appearing as my own lawyer here—

The Chair: Just a minute, Dr Anderson. I do not mean to cut you off, but if you could bring your remarks to a close. We have witnesses on this and a discussion, and we do have another bill.

Dr Anderson: I understand, sir. I have waited five years for this statement, and I would like to go through the legal and—

The Chair: That is no problem. I would just appreciate it if you could bring it to a close shortly so we can proceed with the other business.

Dr Anderson: I will do it as quickly as I can.

The legal issue: Our institution is an institution for advanced study. Throughout the world that is a synonym for "university," but we are not allowed by the ministry to call it Wolfe University. That is what it is in the vernacular, and indeed Mr Rae has referred to it as Wolfe University himself in a letter to me.

You can see I have brought this coin here. On one side we are already incorporated, under the Business Corporations Act, as a university, as our title implies. There is no question about that. The other side of the coin of such an institution is the academic side, which we are here to talk about today. I notice it is very similar to the railway people, who had to be incorporated not only under the Business Corporations Act but separately; we are in the same position as our railway friends.

We are already licensed by the crown. The two sides of the coin are indivisible: You cannot have one side without the other. My argument, if it had to go to legal court, would be that we have already been given the power so it is only up to you to pass this little bill to symbolize your blessing. The lawyer for the railways said "technical." That is what this is. It is merely a technical bill, by my argument. If you deny us an academic licence today, you will automatically attempt to nullify our articles of incorporation already granted by the province. This would be highly inconsistent and I claim unjust.

Then there is the moral issue. I do not need to speak about that because if any of you are interested in reading my arguments in the compendium—we request the right to the dual corporate academic freedom conferred by this bill simply, and that is all we are asking for, the right to study, do research, give community service and teach students according to our world view, which is not the same as the world view of the public universities. That is the crux of your problem with us.

Every individual professor in Ontario has broad academic freedom. I think the government has bent over backward on that point. This bill will simply honour our collective academic freedom, in which society should not tolerate any interference by the state.

My application is pursuant to the University Act of 1983. I am advised by your legislative counsel that the Wolfe act is not in legal—I repeat, not in legal—conflict with any other act or regulation, and I request that you recommend to Premier Rae its speedy passage.

Mr Chairman, I have several questions in reserve, depending on what happens.

The Chair: Certainly. Thank you, Dr Anderson. Representatives from the government: Is Mr MacKay here from the Ministry of Colleges and Universities?

Dr Anderson: Mr Chairman, before he speaks, there is a procedural question, a legal question. Pertaining to these hearings, it states unequivocally in the regulations that the people who appear have to register themselves in writing to the clerk. The second part of my observation is that I think, again as a matter of equity, that this ought to be required of the government. Is that not so?

The Chair: Members of the committee, in their agenda, received notice that the Ministry of Colleges and Universities would be represented here today.

Dr Anderson: The rules say that the clerk has to receive objection or support in writing.

The Chair: Precedent has been established in this committee that objectors or interested parties, whether they be government or not, can show up at the last minute and not all of them have to be registered. As you will know, we called for objectors or interested parties with the other bills that we have dealt with today.

Dr Anderson: Then I suggest, Mr Chairman, that we rewrite the regulations so that they are in keeping with your practice.

Mr Mahoney: Just on a point: It would seem to me that all members of the committee would wish to know the government officials' positions, and if they were not registered as a delegation, we would be requesting them at this point to help us make our decision, sir.

The Chair: Okay. Could we proceed to the representation from the Ministry of Colleges and Universities. If you would you just introduce yourselves for the purposes of Hansard, that would be terrific.

Mr MacKay: My name is Jamie MacKay. I am the director of the university relations branch in the Ministry of Colleges and Universities, and this is my colleague Jay Fleischer, who is a university affairs officer in the university relations branch. I have some brief remarks on behalf of the ministry I would like to make.

I have been asked by the Minister of Colleges and Universities, the Honourable Richard Allen, to convey the ministry's position with respect to this proposal to create a privately funded secular degree-granting university. Institutions wishing to offer degrees or programs in Ontario leading to degrees must comply with the Degree Granting Act, 1983. Specifically, the act restricts the authority of institutions to grant degrees, provide post-secondary study leading to a degree or be known as a university unless the institution is authorized to do so by an act of the Legislative Assembly of Ontario.

Government policy has been to withhold support for applications made to the Legislature to establish such institutions. Applicants have historically been advised to seek affiliation with a chartered university in Ontario. The government, however, has not objected to the establishment of private institutions wishing to offer only degrees of a theological nature, provided they meet certain criteria.

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In 1985, the then Minister of Colleges and Universities asked the minister's advisory body, the Ontario Council on University Affairs, to review this policy with respect to new private, secular degree-granting institutions. The primary stimulus for the request was the desire expressed by a privately funded institution which already had the authority to grant religious degrees, to have that authority extended to include secular degrees.

In addition to acknowledging the request from the institution, among others, the ministry was also aware of the apparent contradiction between the Degree Granting Act, which provided for the possibility of new degree-granting institutions via applications to the Legislature, and the long-standing policy to which the applicant referred, known as the Robarts policy, which did not provide for such applications to be considered.

On 14 November of this year, the advice of the advisory council was finally received in the ministry. It was submitted to Richard Allen. The advice is under active consideration by the ministry. We have had it for less than a month. In the meantime, individuals and institutions who have requested government support for applications to the Legislature for secular degree-granting authority had been informed by the ministry that such support will not be forthcoming pending the review of the advice from the council and the establishment of a policy by the current government for responding to such requests.

At this time, without an established process or a set of standards for reviewing such applications, or a policy decision by the government as to whether there should be such private degree-granting institutions, the ministry would prefer not to take a position on the specific merits of this application.

Finally, with specific regard to the committee's consideration of this private bill, the minister requests that deliberation on it be postponed until the government has had an opportunity to review the advice it has received from the Ontario Council on University Affairs.

I might just add that our minister is committed to responding to that advice as quickly as he can. He is aware of the inconvenience for many applicants that resulted from his advisory council taking five years to review the matter. It is under active consideration now in the ministry.

The Chair: Are there questions for the applicant or for the ministry?

Mr O'Connor: It appears that what we are getting here from the government and the minister's office is that there is no set process, and maybe we need to develop a process and a policy. Postponement is likely in order, which does not necessarily curtail the fact that this will not go through at some later date.

Mr MacKay: There are really two things that have to be decided by the government. The first thing is whether or not we should have private universities after this long period of prohibiting their existence, and that is a matter of serious debate. Second, if it is decided that we should have such private universities, how can we as a ministry guide or advise the Legislature as to the quality of the applicant. Should we have some quality-control standards? Should the applicants for degree-granting powers have to meet some kind of criteria before they get that power?

You are absolutely right. What we are saying is if the minister decides that we should have the private universities, he is also going to have to decide what rules should govern them.

Mr Ruprecht: To some degree I find it incredible that the ministry will take, as you indicated, nearly five years to come up with this kind of recommendation. We heard the presentation by the applicant a bit earlier. We are talking about a sense of justice and fair play, so I would think we could do a little better than that.

Mr MacKay: I would like, for the record, to make it clear that it was not the ministry that took five years. It was an advisory council which is independent of the ministry and advises the minister directly. I believe there were many reasons that delayed the council's consideration of the matter, but I think the ministry agrees that it has been an unfortunately long period of time that applicants such as Dr Anderson have had to wait for an answer. We certainly will not spend any more time than necessary responding to that advice.

Mr Ruprecht: Just two fairly quick questions, I think. Having said what you have in terms of the recommendations, do you see a time limit within which this discussion could take place in order for the ministry either to grant or not to grant Wolfe its charter?

Mr MacKay: After many years of experience in government, I am rather hesitant to predict a date. In a meeting with some other applicants yesterday, our deputy minister committed himself to being able to make a statement on it or our final ministry position by midwinter. That was the term he used.

Mr Mahoney: Which year?

Mr MacKay: 1991.

Mr Ruprecht: I think most of us would agree that we realize this may not be the forum to discuss the justice of whether we want to have private universities with degree-granting status, as opposed to public, and what the cost implications would be in all the details. When would you recommend that this kind of discussion take place, if you would think that it should take place? What is the forum for this, if it is not in front of this committee?

Mr MacKay: Historically, it is the Legislature that has had the authority to establish degree-granting institutions. Since 1984, when the Degree Granting Act came into force, that has been the only route. Certainly it is a subject of a great deal of discussion within the Ministry of Colleges and Universities. It was a matter of some public hearings held by our advisory council during the course of its review, where interested parties were able to put their views forward. They have been taken into consideration in the formulation of the council's advice. I think it is a discussion that may have to take place in cabinet as well in terms of the government taking its position on the matter. Then I guess it is a matter for the Legislature to debate.

Mr Fletcher: I have four questions. The first one is for Mr MacKay. The rest will probably be for Dr Anderson. Mr MacKay, how many privately funded, privately owned universities are there in Ontario right now?

Mr MacKay: There are no private degree-granting institutions, in the sense that all the institutions that have degree-granting authority from the Legislature are in receipt of direct or indirect government funding or government operating support. We have theological institutions, Bible colleges, that have certain theological degree-granting powers. The ministry has supported the establishment of, I think, 10 or 11 of those.

Mr Fletcher: Dr Anderson, I have a few questions for you also.

Dr Anderson: Before we leave that question, I might be able to help Mr MacKay.

Mr Fletcher: No, it is okay. I have what I want from Mr MacKay.

The Chair: Dr Anderson, we will give opportunity at the end for final statements as well.

Mr Fletcher: Dr Anderson, do you fund your university right now through tuition fees?

Dr Anderson: We are not in existence, of course, until this bill is passed.

Mr Fletcher: Would it be through tuition fees?

Dr Anderson: It is impossible to start a university without degree-granting powers, because you would not get any students.

Mr Fletcher: I know. Would it be through tuition fees or through corporate donations?

Dr Anderson: No. Mr Ruprecht raised the question of funding too. That does not appear here. But Wolfe is unique in a number of respects. It is going to be owned by its investors. Students will have to pay the full fee unless they have scholarships and so on, of course. We would not accept any money from the province. This is the point I want to make in connection with Mr MacKay's answer to you. This word "private" really should be removed. OCUA uses the term "freestanding," which is not bad. We are using "free enterprise" because the public universities, except for the University of Toronto here, make the case that they are private universities, which they are legally.

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Mr Fletcher: Just one more question.

Dr Anderson: They are not crown agencies.

Mr Fletcher: I was just wondering, Dr Anderson, with your university coming on, have you tried to seek affiliation with an established university, or is that not your wish?

Dr Anderson: I would not want affiliation. The purpose of Wolfe is to establish a kind of university that does not exist in Ontario.

Mr Fletcher: And may not.

Dr Anderson: No university would want to be affiliated with us. The second thing is that there is a very long history of difficulties with affiliation. It has not worked very well in 27 years.

Mr J. Wilson: I guess following along Mr Ruprecht's comments, having served on the board of governors at the U of T and knowing a fair amount about OCUA, I would be somewhat concerned about some assurance from the ministry that Dr Anderson and Wolfe and other applicants are receiving a fair hearing along the way. It is comforting to hear that the minister has made assurances to make decisions, but I would be interested to know in Dr Anderson's summation whether he really feels, after five years, he has been getting a fair hearing along the way.

In my opinion there is a bit of a bias in OCUA, where it is coming from, and perhaps full advice is not getting to the ministry. I am open to hear from Mr MacKay on that, but also I would be interested to hear from Dr Anderson.

The Chair: Dr Anderson, would you like to comment first and then we will ask Mr MacKay to respond.

Dr Anderson: When you are my age, you know that two years or five years is nothing and I understand that they are all busy, they are volunteers and have their jobs to do as well. I do not want to attack them on that score. We are a little impatient.

I was given nine dates in the past two years from the hearings that Mr MacKay mentioned, each date two months later than the previous one. Even the last one given to me in July was not true, as it turned out. I do not know the reason.

The Chair: Mr MacKay.

Mr MacKay: I cannot really comment on OCUA's advice until the minister responds to it, but I can say that within the ministry we are examining the question from all sides and have had meetings with Dr Anderson and other groups that are interested in obtaining degree-granting powers. I certainly think the final decision that results will be on the basis of deliberations that have looked at all points of view on the matter.

Dr Anderson: Mr Chairman, just to supplement the comment in connection with this point to Mr Wilson, do not be misled by his date that he gave you of 14 November. That report was finished before the election. It has been sitting somewhere for the past three months.

Mr MacKay: Once again, I think it was tabled with the minister on 14 November; it was not given to any ministry staff or the minister prior to 14 November 1990. It was at the council and we have only had it since then to deal with.

The Chair: Okay. Let us try not to pursue that specific point as to when it was there, because I would not consider it directly related to the motion. Are there other interested parties who want to comment? If you could come forward and introduce yourself.

Dr Bogorya: I am just a member of the public.

The Chair: No, that is fine. If you could just introduce yourself.

Dr Bogorya: My name is Dr Yvonne Bogorya. I am vice-president of the Canadian School of Management, which is a non-profit, private academic institution not allowed to use the word "university" that has been operating successfully in this province for about 14 years. The school was founded by Dr Korey, who was vice-president of Ryerson. It has about 65 faculty members, is fully qualified and has its own right to grant academic designations with approval of the Ministry of Colleges and Universities.

We are maybe in the same category of 20 years of struggle to convince the ministry and the minister to change the policy. I think the struggle is around the policy change. As Dr Anderson mentioned before, Robarts's policy is not valid any more. It was established many years ago. The Ontario Council on University Affairs took this matter in its hands about three years ago. I think the committee was established by Dr Nelles. The committee was looking for briefs. We submitted a brief and I think other colleges did the same thing. There was some contribution from schools like ours. We did not get any results from the committee. I think the frustrating part is probably the bureaucratic way in which the matter is handled, without ability to see the vision.

We live in the 20th century and we talk about vision and future in education. I think this is where we would be concerned as citizens of this province and as educators. We are academics who would like to be able to provide another alternative to the traditional university system. I think this is a right that we should have, to establish a private university which is self-sufficient. These universities are not asking for any funds from the government. It is a totally self-sufficient operation.

We agree with the principle of quality control, academic criteria to be set. I think we would like to be guided by the Ministry of Colleges and Universities. I am not saying that we would like to set up institutions which are totally free in wheeling and dealing, but institutions which live within the educational system and do not have to struggle on the verge, feeling like we are, alienated in a sense, being a private institution but not recognized as part of the educational system. It is very difficult to live in this way, although we do provide service to the community which is highly qualified.

To sum up, I would say that I think Mr MacKay was very helpful to us for many years and the minister is trying to overcome this problem, but the whole mechanism somehow is not leading to the final solution which could be moving a step forward to the next age and creating a new policy with regard to the possibility of setting up private universities, which are well regarded in the United States and England. It is a well-known tradition in the world, so Canada would not be falling behind other countries, recognizing that kind of need.

Mr Ferguson: I would like to move deferral of this matter for five months, or it can come back sooner if the minister looks at the whole question. I think members of the committee recognize that the minister currently has some concerns. The previous government's Minister of Education expressed some concerns as well. So I am certainly not prepared to make a decision on this whole thing.

The Chair: We have a motion for deferral. Do we have a seconder for that motion? We do not need one? Okay, sorry. I am used to always having seconders.

Is there any debate on the motion for deferral?

Mr J. Wilson: Just a comment to Mr Ferguson: Perhaps in your motion you should not be time specific, but simply put a strong message in there to the minister and to the ministry that the committee's wish is that this be fast-tracked or a solution reached as quickly as possible. I think we too agree that deferral is in order here.

Mr O'Connor: I support the amendment as well. Given that we are a new government and have a lot of work to do, to reconsider the process and maybe set a policy direction by a time limit would be quite difficult at this time.

The Chair: The amendment was from Mr Wilson. It was friendly to the mover of the motion so we will consider that acceptable.

Any further debate on the motion to defer? All those in favour of deferring? Opposed?

Motion agreed to.

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Mr Ruprecht: I have a point of interest here. I had my hand up for some questions and you had recognized me. Then suddenly you introduced Mr Ferguson and consequently I did not get around to asking my final question.

The Chair: No, sorry, Mr Ruprecht. What occurred was that you had first opportunity to ask questions, and you asked a couple. I moved on to the other members on the list and Mr Ferguson was on the list after Mr Wilson, and then you were up again after Mr Ferguson.

Mr Ruprecht: Let me make this point as strongly as I can for you as the Chair of this committee. One of your main jobs is to ensure that members have the right to ask questions, possibly as long and as detailed as they may want to ask those questions. Consequently—

The Chair: Mr Ruprecht—

Mr Ruprecht: Let me finish, please, because you are new in this role and I want to make sure that you understand our point of view here. Consequently, when a member raises his hand or her hand to ask that question, it is your job to ensure that member is heard and can ask the question in front of these people. Consequently, I would wish that in the future you adhere to those kinds of traditions we have on this committee. Thank you very much.

The Chair: In response to that, as I stated earlier, you asked the first set of questions. We moved around in order. Mr Ferguson was the next person in line and he had the right to the floor. As any member who has the right to the floor, he has the right to make the motion for deferral. You were up after Mr Ferguson, but Mr Ferguson—

Mr Fletcher: On a point of order, Mr Chairman: Is this a challenge to the Chair?

The Chair: No. Excuse me. Let me finish here, okay? Mr Ruprecht, you were the next one on the list after Mr Ferguson. Mr Ferguson had the right, as any member of this committee does, to move a motion of deferral at any time when he is recognized as having the floor, and that is what occurred here. So it was not an attempt by the Chair to limit any member's right to ask questions of any group.

Mr Ruprecht: If that is the case, please tell me at what point I could have asked a question of Dr Anderson.

The Chair: You had the floor at the very beginning and asked questions. I was under the impression that you were done asking questions for that time.

Mr Ruprecht: I was not.

The Chair: Well, then if that was the case, I apologize for moving on without that. That was not a deliberate attempt. I thought you had completed.

Mr Ruprecht: I had simply deferred because I thought I had asked three questions already, so consequently you would recognize someone else, and I just thought I would get my chance later.

The Chair: Yes.

Mr Ruprecht: Then I raised my hand again and you did not recognize it.

The Chair: No, I put you down on the list because we—

Mr Ferguson: That is the way it goes.

The Chair: Excuse me. Order, please. I put your name down on the list. You went on the list after Mr Ferguson because he had his hand up before you had yours up.

Mr Ruprecht: Okay. Let's just say this—we do not have to go on discussing it—in the future try to accommodate the committee members.

The Chair: This is a discussion between Mr Ruprecht and myself and we will leave it at that. His point has been taken and he knows where the Chair stands on the issue.

LA CAPANNA HOMES (NON-PROFIT) INC ACT, 1990

Consideration of Bill Pr48, An Act to revive La Capanna Homes (Non-Profit) Inc.

The Chair: Can we move on to the next point of business, Bill Pr48, An Act to revive La Capanna Homes (Non-Profit) Inc. Mr Ferguson is the sponsor of the bill. Would you care to make a short statement?

Mr Ferguson: Very briefly, it is just a corporate revival.

The Chair: Okay. Applicants, please introduce yourselves for the purpose of Hansard.

Mr Volpini: Good morning. My name is Frank Volpini. I represent the applicant, La Capanna Homes. To my left is the president of La Capanna Homes, Joe Levato.

The Chair: Okay. Would you care to make some comments?

Mr Volpini: In light of the foregoing discussion between committee members and the Chair, I would like to underline the fact that this is a friendly application, unopposed as far as I am aware. Quite simply the compendium that I filed—I appreciate that we are getting on in the morning's dealings—is self-explanatory. I can indicate that the applicant is a non-profit housing corporation, having been incorporated in October 1983 under the Corporations Act. It owns and operates a low-income housing complex in the city of Kitchener. It is a 50-unit complex and is funded jointly by the Ontario government and CMHC.

In January 1987, unbeknownst to the applicant, the charter had been essentially dissolved as a result of noncompliance with section 5 of the Corporations Information Act, which was for failing to file a special notice as was required of a number of other non-profit corporations. The reason for the failure, quite simply, was the difficulty in the notice getting to the applicant. There was an old address as a matter of record to which the notice had been sent. This did not get into the hands of the board of directors until some time quite later on. In fact, a notice was filed, albeit approximately two months late. The examination section saw fit to return a letter indicating, "Thank you for the filing of the special notice, but you are still in a noncompliance state and therefore would you mind going through the administrative revival route," which allowed for a two-year period of time.

Unfortunately, that letter also went to the old mailing address and of course that also did not get to the applicants. That deficiency was not known to the applicant until, of course, there was a refinancing in order. Through the regular searches conducted through that refinancing, it became apparent that the charter had been dissolved as of January 1989.

Unfortunately, this being a private non-profit corporation we are not allowed the luxury of going the administrative revival route as the private for-profit corporations. I understand that possibly may change in the near future, but we are here now to obtain your blessings to revive this corporation.

If you have any questions, of course, direct them to myself or to Mr Levato.

The Chair: Comments from the government or legal counsel? Mr Fletcher, while we are waiting for comments there, are there any questions for the applicants?

Mr Ferguson: I do not have a question of the applicant, but I have a question of somebody else. These revivals appear to me to be a collective waste of time.

Is there not some other mechanism that we can kick into place?

The Chair: Would the legal counsel or the clerk care to make a comment to that effect, if there are any other mechanisms for revival?

Mr Volpini: My understanding is that it will be consistent with the private for-profit situation, in which case they will have five years within which to find that they are dissolved. Then you go through an administrative revival application process, which is basically that you file an application, give a reason for the oversight and a cheque and that is it. It would save all this time and effort.

Mr Ruprecht: That is what I heard. There probably should be a process whereby the public has to be informed and then there should be a process where people could come and speak if they objected. It may not be just as simple as simply putting the application in and getting a second chance.

The Chair: We have Mr Strauss from the Ministry of Consumer and Commercial Relations. He is a legal counsel for that ministry. Would you care to comment at this time?

Mr Strauss: I am a lawyer with the companies section of the Ministry of Consumer and Commercial Relations. The process for reviving a corporation which has been dissolved for default in respect of its information-filing requirements is set out in the Corporations Act. The corporation would have two years from the time of dissolution to revive virtually automatically. What happened in this case, and this is very common, is that there was a default in filing information with the companies branch. This default was noted and the companies branch attempted to bring this default to the attention of the corporation.

We looked at our records, at information provided to the companies branch, as to the head office of this corporation and we mailed the notice of the default to that address. Unbeknownst to us, as appears to be the case, the head office was changed. Under the Corporations Information Act, that change has to be disclosed to us. It was not disclosed. Consequently we relied on the best information that we had, and hence the dissolution.

The Chair: Can I just ask if there are any objections to the revival.

Mr Strauss: None.

The Chair: Okay.

Mr Volpini: For the record, my friend is in error. A special notice, albeit late, was filed. It was required as of 27 January, I believe. The notice was in fact filed, albeit late, on 19 March 1987. Approximately a week later—this is a week after the filing—there was a similar letter from the examinations section saying, "Thank you very much for your late filing, but would you please comply." That letter went to the old address. As of 19 March when the late filing took place, the new address of record was in fact a correct one and had they complied with that, it would have gotten to the attention of the group.

The Chair: Okay. Are there any further questions or comments for either the applicant or the representative from Consumer and Commercial Relations? Seeing none, are the members ready to vote?

Sections 1 to 3, inclusive, agreed to.

Title agreed to.

Preamble agreed to.

Bill ordered to be reported.

COMMITTEE BUDGET

The Chair: We have one more item of business to deal with as a committee. The clerk has a proposed budget that has been developed and he would like this committee's approval of that budget. Todd, would you care to comment on the proposed budget?

Clerk of the Committee: This budget contains nominal amounts for all of the basic administrative costs the committee is likely to incur between now and fiscal year end 31 March. If this budget is approved, it would be presented by the Chair of the committee at the Board of Internal Economy at a future meeting. Once approved by the board, the committee would have this money to cover its operating expenses.

The Chair: Are there any questions regarding the proposed budget?

Mr Ruprecht: I move approval of the budget.

The Chair: Motion to approve by Mr Ruprecht, seconded by Mr Miclash. All those in favour? All those opposed? Carried.

Are we meeting again next Wednesday?

Clerk of the Committee: We are not scheduled to, unless a particular bill comes through.

The Chair: Okay. We are not at this time scheduled to meet next Wednesday, so the clerk's office will inform us if we need to.

Interjection.

The Chair: No, we are not planning on sitting through the break.

The committee adjourned at 1153.

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Ontario

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Wednesday 5 December 1990

Standing committee on regulations and private bills

Organization and Private Bills

Chair: Kimble Sutherland
Clerk: Todd Decker

Published by the Legislative Assembly of Ontario
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Le mercredi 5 décembre 1990

Comité permanent des règlements et des projets de loi d'intérêt privé

Organisation et projets de loi d'intérêt privé

Président : Kimble Sutherland
Greffier : Todd Decker

Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 5 December 1990

The committee met at 1008 in committee room 1.

ORGANIZATION

Clerk of the Committee: Honourable members, it is my duty to call upon you to elect one of your own as Chairman of the committee. Are there any nominations for the position?

Mr Ferguson: I would like to nominate Mr Sutherland.

Clerk of the Committee: Mr Ferguson has nominated Mr Sutherland. Are there any further nominations? If not, I will declare nominations closed and Mr Sutherland duly elected Chair of the committee.

Mr Ruprecht: Let me be the first to congratulate you.

The Chair: First, thank you very much to my nominator. It is a pleasure to be Chair of this committee. I hope I will be able to be very efficient with the committee. I do not see a lot of potential for controversy or long philosophical debates in this one. Hopefully we can just deal with the business that needs to be done.

The next point of business is to have an election of a Vice-Chair. Are there any nominations?

Mr Abel: I would like to nominate Larry O'Connor.

The Chair: Larry O'Connor has been nominated. Are there any other nominations for Vice-Chair?

Mr Ruprecht: Can I ask a question? Is Larry O'Connor a QC?

The Chair: No.

Mr Ruprecht: Okay. That is all I want to know.

The Chair: Are there any other nominations? Seeing none, we will accept that the nominations are closed. Larry O'Connor is Vice-Chair of the committee.

Just before we go on to the actual business of the committee, I want to introduce one person who is with us today, Avrum Fenson. Avrum works in the legislative library and he is the research staff to this committee from the library. You will see Avrum from time to time and I believe Avrum will be presenting a report once in a while as well.

Moving on, we have four private bills to be considered today. They are scheduled for 10:30, so we do not have all the sponsors or applicants here yet. If you want to grab a coffee or a glass of water or take a break for a few minutes, we will reconvene at 10:30 when they are here.

The committee recessed at 1013.

1027

TOWN OF RICHMOND HILL ACT, 1990

Consideration of Bill Pr26, An Act respecting the Town of Richmond Hill.

The Chair: Mr Sorbara is the sponsor of this bill. Mr Sorbara and the applicants have come forward. I would like to ask the applicants to introduce themselves for the purpose of Hansard.

Mr Sorbara: Thank you. I have been a member of this House for five years and this is the first opportunity I have had to appear before this committee and present a bill before this committee. I am not happy about it. I should explain to the gentlemen on either side of me that had the results of 6 September been somewhat different, I guess I could have expected to be considered for a further opportunity to sit in an Ontario cabinet. When you are in cabinet, you are not permitted to present private bills.

I would like to introduce to you Richard Uldall, a solicitor with Meighen Demers—he was representing the town on Bill Pr26—and Les Pengelly, who is the chief bylaw officer for the town of Richmond Hill, one of the greatest communities in all of Ontario. I just moved there about a year ago and have been breaking bylaws, I will tell the chief bylaw officer, ever since.

I will let counsel speak to the bill just to point out to you that this bill, if and when passed, will give the town of Richmond Hill special powers to regulate the dumping of fill within the municipality. I would have preferred to have seen a bill from the town of Vaughan, which is the other municipality in my riding, prohibiting the further dumping of garbage in the Keele Valley landfill site, but maybe we will have one of those a little later; a bill prohibiting the Minister of the Environment from using her emergency powers—I guess we are not going to have that today; maybe we will get to it another time.

With no further ado, I will ask counsel to speak to the bill. I know both of the witnesses will be available for your questions.

Mr Uldall: Good morning. What I would like to do is to set out for you fairly succinctly the purpose of this legislation and provide you with some of the concerns we believe should be addressed and really form the basis for the legislation.

The purpose is to provide provincial legislation to regulate the dumping of fill and to authorize the municipality to regulate this sort of dumping, particularly in low-lying environmentally sensitive areas. The town of Richmond Hill has encountered numerous problems in recent years with property owners dumping fill on privately owned lands, and neither the town nor the province seems to be able to do anything about it.

The concerns are first and foremost, I would say, environmental. This essentially involves the destruction of environmental features. Property owners, for example, are trying to extend their backyards into abutting ravines with the effect that, in certain cases, there is interference with storm water management. There can be sedimentation problems caused. Many of these ravines are not yet mapped by conservation authorities and therefore there is no regulation or authority to stop such filling.

The type of fill we are talking about could really be anything, any sort of industrial waste. For example, what we have seen are property owners removing construction debris from residential construction projects and piling this material up, frequently to the height of 8 to 12 feet.

Also, there is dumping on wetlands in the northern part of the town of Richmond Hill. A lot of that area is wetlands, so we are seeing destruction of wetlands and associated vegetation. There are a number of interesting environmental features in the northern part of the town of Richmond Hill. In the Oak Ridges moraine we have kettle lakes and some interesting flora and fauna that are being destroyed as a result of this dumping.

The second concern is aesthetic. We are seeing large piles of this fill on vacant lots. Obviously that is very unsightly.

Third, I would say drainage is an important concern. This fill has been piled, as I said, to heights of upwards of 8 to 12 feet. This interferes with pre-existing drainage patterns.

Fourth, contamination is a major concern. We are seeing fill dumped on private lands which can include organic matter. This type of fill can include such things as chemical waste. Another example of the sorts of problems that are associated with this dumping is termite infestation.

The primary thrust and concern in Richmond Hill is with the environmentally sensitive wetlands in the Wilcox Lake-Oak Ridges district. Many of these wetlands have already been lost as a result of this dumping. For example, in the Snively reserve, which is in the northern part of the town, one property owner dumped truckloads of fill on his lands within this reserve and Richmond Hill could do nothing about it. The Ministry of Natural Resources, the Metropolitan Toronto and Region Conservation Authority and the South Lake Simcoe Conservation Authority have all advised they can do nothing about it. There being no rights to the swamp land is apparently the reason, and where there is no development permit issued there is nothing the municipality can do. The lands are not covered by the fill construction and alteration of waterways regulations.

One thing Richmond Hill has done as of 19 July 1988 is adopt a secondary plan for the Wilcox Lake-Oak Ridges district. That is the official plan amendment 71. This, I understand, has not yet been approved by the Ministry of Municipal Affairs. That plan identifies a number of areas, including Snively reserve, as environmental priority areas. Also, in the Wilcox Lake-Oak Ridges areas there has been an extensive environmental plan completed.

I understand that the official plan amendment 71 is the subject of an Ontario Environmental Assessment Advisory Committee hearing to determine if an environmental assessment is required before changes are made in the Oak Ridges community. Currently, though, official plan amendment 71 is only town policy. The problem we have with the official plan amendment 71 is that even after it is approved, the municipality really has no control until you have a development application in relation to the specific property. Any zoning of the land as open space or conservation will not prevent filling activity by an owner, either.

What we see is really a legislative gap, and probably the only piece of legislation that is useful in the area is the Conservation Authorities Act, if I could just explain what that provides. If floodplain lands are mapped by conservation authorities—for example, Richmond Hill's conservation authority is the MTRCA—the fill lines are mapped and no filling is permitted within these fill lines without a permit from the conservation authority. The problem we have with that legislation is that the thrust of the act deals with flooding control and not really with conservation of environmental features. So even if we get all the mapping done, it is really not ultimately a solution.

There is precedent legislation in, for example, the city of North York and the city of Brampton. The problems we have seen with the legislation that is in place is that the municipality can be held liable for consequences of issuing permits, for example. Therefore, what we are putting forward on behalf of the town is a limitation of liability clause.

I understand there will be opposition to that, but what I want to do at the outset is explain why we want that there. What we have seen is that these other municipalities have been backing away from using this legislation because they do not have a limitation of liability. We say that really there was never any intention that the risk of liability accompany the powers requested under the act and, if the act is to be effectively used, the municipalities cannot be afraid that they are exposing themselves to risk of liability. I understand that this may not be acceptable ultimately, but that is the town's position.

The recent study report for this proposed legislation—Ron Kanter's greenlands study in relation to the Oak Ridges moraine—points to the need for legislative changes to provide authority to deal with actions such as stripping of lands, dumping of fill and widespread cutting of trees.

Some other problems have surfaced. For example, even though the town of Richmond Hill retained engineering and environmental consultants back in 1988 and undertook an environmental master servicing plan, and this will result in modification to official plan amendment 71 to include additional policies protecting wetlands, it is our view that the legislative enforcement will still be lacking.

We also have a draft provincial wetlands policy which sets out wetlands as a matter of provincial interest and provides for inclusion of protective policies in municipal official plans, but unfortunately that is still restricted by the limitations of the official plan authority.

That is an outline of the purpose and the concerns. Those are all my comments and I would certainly invite any questions.

The Chair: Thank you very much for your comments. I would now like to ask the parliamentary assistant to the Minister of Municipal Affairs to comment on the bill.

Mr Johnson: I did not get all the information with regard to this. I would like to get that.

Mr Ferguson: Essentially the Ministry of Municipal Affairs supports the bill. This is not the first time that a bill like this has been passed. There are precedents. There is some concern, and I will defer to legal counsel, on that

question of ensuring that the municipality has a limitation of liability. Perhaps legal counsel can address that on behalf of the ministry.

Mr Melville: With respect to the issue of immunity for liability, the response of Municipal Affairs is that there is no similar protection for the exercise of other municipal powers under the Municipal Act. Second, why should Richmond Hill be protected in this way when other municipalities are not, especially if, for example, the municipality were to act in violation of its own standards or agreements?

Finally, the Attorney General has not had any time to fully comment or see this particular amendment. I was in contact with Steve Fram of the Ministry of the Attorney General and he told me that he would oppose the inclusion of any such clause and that indeed they have not allowed any such clause in the last 18½ years.

The Chair: Does the applicant care to make any comments?

Mr Uldall: I actually have heard the position put forward by my friend. What I attempted to do was address his concerns. I do not really have anything further to add at this point.

Mr Sorbara: If counsel from the Ministry of Municipal Affairs might just assist us and direct us to the provision in the copy of Bill Pr26 that I have limiting the liability, that would be helpful to me.

Mr Melville: It is not in the bill right now. It is proposed as an amendment by the counsel for Richmond Hill. He should have a copy of it.

Mr Sorbara: Perhaps legislative counsel can assist me in determining how that sort of amendment proceeds. Is it done here in committee?

Ms Mifsud: Yes, it is.

Mr Sorbara: Am I going to be called upon to propose that amendment?

Ms Mifsud: A member of the committee would move the motion, not you.

Mr Sorbara: I could probably take the rest of the afternoon off then.

1040

The Chair: If there are no further comments, I will ask for questions from committee members to either the applicant or the parliamentary assistant. Are there any questions at this time?

Mr Ruprecht: I have a number of questions. If I understand this correctly, we have the parliamentary assistant telling us that they would support this bill and we have legal counsel telling us that they have some problems, that they are actually waiting for an amendment or that to some degree they may not be supporting this bill. Something has to be worked out here. That was my first point.

I would like to find out how the parliamentary assistant will support this bill after the amendment has been made. Is that how you are going to work this out? I am not quite sure about that. That was my first question. I have three more.

Mr Ferguson: We support the bill as it is before the committee. We do not support the amendment. The amendment is not included in the bill at this point in time. I would assume that somebody would probably move to include that amendment.

Mr Ruprecht: So that we may still be able to pass this bill, I assume.

Mr Ferguson: Oh, yes. Everybody agrees on the bill. The only thing we do not agree on is the amendment.

Mr Ruprecht: All right. The second question was to counsel or to the parliamentary assistant. We have heard some evidence here that Richmond Hill may not be the only one coming forward to request such legislation. This would make me think that there may be a whole pile of other municipalities arriving here on this doorstep on a pretty frequent basis requesting similar legislation.

I certainly do not want to hold up this bill, but would it not be possible to pass an omnibus bill of some type that would make it easier for other municipalities to request this kind of legislation since this, from what I understand, may not be the first time that the request has been made? I will leave that with you while I am asking my third question.

My third question would be to Mr Bull, who is a solicitor, right?

Mr Uldall: It is Mr Uldall. Mr Bull is an associate of mine. He is in my office. I am here, however, for the town.

Mr Ruprecht: You are lucky that you come with Mr Sorbara.

Mr Sorbara: The reverse is true. I think I am lucky that I am here with Mr Uldall and the member for Parkdale.

Mr Ruprecht: As an aside, I had the pleasure of sitting with Mr Sorbara when he was chairperson of the cabinet committee on regulations, and at that point I was the minister responsible for multiculturalism. He did a very fine job so I have no reason to believe we would want to hold up this bill because he knows so much about regulations.

I have one final question. I would be interested to know why the conservation authorities which Mr Uldall has mentioned—there were a number of conservation authorities involved—would not have the legislative right to regulate to some degree or some powers over these kinds of people who want to dump building material and other material into the wetlands.

I find it somewhat strange that the legislation that is built in would not permit the conservation authorities to have some regulatory powers over these kinds of actions, because if they do not, then again I can foresee, as I mentioned in my first question, that there will be hundreds and perhaps thousands of applicants coming with similar requests.

The Chair: What we will do first is get response from the parliamentary assistant and legal counsel to your second question. Then we will deal with the third question.

Mr Ferguson: On the whole question of a bill to deal with fill permits, there are initiatives that are taking place

right now within both the Ministry of the Environment and the Ministry of Municipal Affairs to look at this whole entire question, particularly in this area of the province. As you know, the moraine is very much an environmentally sensitive area. It is being covered here. We are looking at that and hopefully we can come up with a game plan to deal with that whole entire area. That is why we would rather at this point just deal with one bill at a time as requests come in.

I just want to note there has not been essentially a truckload of requests; they have been very few and far between. So hopefully we can come out with a policy statement on how we are going to deal with that entire moraine. I think you are aware that some members of the Legislature have already expressed some concern in the House about this entire area.

Mr Sorbara: To my friend the member for Parkdale, it is a very good question because one would think that in areas such as these the conservation authority would have authority to regulate the dumping of fill. As I understand it—I think there are a number of people in this room who will correct me if I am wrong—the Conservation Authorities Act in respect of each conservation authority defines fairly specifically the areas over which they have jurisdiction. During my time as the Chairman of the cabinet committee on regulations, we passed a number of regulations allowing conservation authorities to regulate in the strictest of fashion the dumping of fill in those areas over which they had jurisdiction.

The private bill that is before us today, as I understand it, covers in a sense the rest of the territory: all of the town of Richmond Hill, whether it be wetlands, flat lands, highlands, lowlands, your lands or my lands, requiring that a bylaw can be passed determining the circumstances under which fill can be dumped or in fact prohibiting the dumping of fill.

But it seems to me, on reading the act, that there is a provision which deals with areas where there might be a grey area, perhaps a wet grey area, and that is in clause 1(1)(b). Actually the whole section sets out that the corporation can pass bylaws, but these bylaws are not applicable where the provisions under the Conservation Authorities Act deal with the dumping of fill. They are way ahead of the game in this area.

It seems to me that municipalities are catching up, and I suspect that if this is effective, you will see a number of private bills coming before this committee over the next while dealing with the very same issue. Probably you will be able to deal with them far more expeditiously than this one, because this, as I understand it, is the first.

Mr Johnson: It concerns me that I heard Mr Uldall say that there is contaminated and toxic chemical waste being dumped. Understanding that there are regulations that control the dumping of such waste, I think it would be prudent of the town of Richmond Hill to investigate this further and ensure that in fact there is not dumping of toxic waste or chemical waste within Richmond Hill. Certainly if that is happening, I think there are regulations presently that exist that can control that specific dumping.

Mr Uldall: I think Mr Pengelly of the town is probably most qualified to respond to that.

1050

Mr Pengelly: If I can answer both questions that came from the legislators, first I think we have to remember or understand that the town of Richmond Hill has a very high water table. Indeed, they had to dewater one subdivision of about 50 acres before they could even lay the sewers and watermains. So we are very sensitive to contaminated fill and those types of things.

The high cost of any more dumping in dumps or regulated areas has made for indiscriminate dumping anywhere in the town where they find a hole to back in and dump a load of material. You are quite right that there are other acts that can be enforced. Unfortunately, they are not enforceable by the bylaw department of the town of Richmond Hill and by the time we find a member of the Ministry of the Environment to come out, he may be miles away. We normally have to wait days. By that time it is too late.

We are on the job. The bylaw enforcement officers, if they get a phone call that there is some dumping going on, are there within hours. Indeed the York Regional Police—I am retired from there; I have been a police officer for 32 years, so I have a little bit of background—also enforce our bylaws or assist us, so they are on the job as well. However, we do not all enforce the regulations that the government has in place in other acts. That is not our authority to do. We are left a little bit tied up in this matter, and that is why we have brought this forward, so that we can enforce it and help to clean up.

Again, as I said, with our high water table in all of the town of Richmond Hill, we have to be very careful about what contaminated fill is brought in. In particular, excavators anywhere in the city here will come in and dump loads of stuff and we have no control. We have no way of knowing whether some of that material has termites and, even if we found them, we could not do anything about it. That is our position.

Mr Johnson: I guess my concern is that if regulations exist to control contaminated waste dumping, that there are regulations in place presently, it suggests to me that maybe policing or looking after these regulations is the problem. So it concerns me that if we have new regulations, how well or how efficiently can these new regulations be policed, or will they be policed?

Mr Sorbara: Just to try to answer that, the bylaw enforcement officers are charged with the responsibility of enforcing these regulations. When you refer to the dumping of contaminated soils or any other kind of material that is the subject of special regulation, there are agencies of government that are charged with the responsibility of enforcing that. But this bill gives Richmond Hill the opportunity to regulate, issue permits for and prohibit the dumping of sand and topsoil and other sorts of things that would not fall under those provisions, whether it is the Environmental Protection Act, some other act of the Legislature or some other bylaw that arises under some other act.

It is not sufficient reason to argue that there are other regulations dealing with the dumping of toxic soil. This is not controversial. This just says that Mr Pengelly will have a bylaw where he can say, "You can't dump that sand there because, my God, there is a watercourse or there is a swamp." Nothing else touches it. This is just a little piece of the puzzle that fills in and gives them authority to act where under any other act of the Legislature or bylaw they are presently or currently without authority.

The Chair: I am going to move on.

Mr Fletcher: Just a couple of things. One, I am not that familiar with the Conservation Authorities Act. Clause 1(1)(a) of the bill says "other than those areas subject to regulations made under clause 28(1)(f) of the Conservation Authorities Act." Is there anyone here who can tell me what that clause is?

Mr Uldall: Yes, in fact I have copies. Subsection 28(1) of the Conservation Authorities Act provides as follows, and I will read you just clause (f), which is the pertinent section here, "Subject to the approval of the Lieutenant Governor in Council, an authority may make regulations applicable in the area under its jurisdiction...prohibiting or regulating or requiring the permission of the authority for the placing or dumping of fill of any kind in any defined part of the area over which the authority has jurisdiction in which in the opinion of the authority the control of flooding or pollution or the conservation of land may be affected by the placing or dumping of fill."

Mr Fletcher: Thank you. That leads to another question. Does the Conservation Authorities Act not already do what you are asking this bylaw to do?

Mr Uldall: What I have tried to sort of point out initially was that the problem with the Conservation Authorities Act is that essentially the thrust of that legislation deals with flood control, and also, as I tried to emphasize when I read the section, it deals with defined parts of the area. If the floodplain lands are mapped by the conservation authorities—these are fill lines that are mapped—then no filling is permitted within those fill lines. But, you see, that is the limitation that concerns us.

Mr Fletcher: Once more, then, the fill lines that could be mapped out are subject to change. They are always subject to change, so there could be encroachment on wetlands or anything else if they decide to change the official plan and change the fill lines. I know that has happened in some communities, where development has encroached on the wetlands because the fill lines have been changed through the official plan.

Mr Uldall: Right.

Mr Fletcher: And it has gone through the ministry. So those lines could be changed.

Mr Uldall: They are obviously subject to revision.

Mr Fletcher: One other thing, Mr Chair, just one—

The Chair: We want to continue moving on here, so one more and then we will move on to Mr Jordan.

Mr Fletcher: The other part is clause (c), "for prescribing conditions under which the placing or dumping of fill may be carried out under a permit issued," in other words, the city will issue a permit and also dictate what kind of fill can be put in an area. I am on page 1 of the bill.

Mr Uldall: Right.

Mr Fletcher: Is that what it is going to do? In other words, who is going to check on what kind of fill goes in and who is going to—

Mr Uldall: These sorts of things, yes, I think that is a sensible reading of the—

Mr Fletcher: In other words, the town of Richmond Hill could at some time say, if it was approached by a developer who wished to develop in a certain area that was environmentally sensitive, "Yes, it's okay, fill and you'll be all right."

Mr Uldall: Yes. I think it is there so that some control can be exercised in terms of, as you say, what can be dumped and where.

Mr Jordan: This bill seems to deal with the dumping of materials and in the write-up I understood that the storage of materials was also a problem there. I was wondering how the town planned to control that aspect.

Mr Pengelly: Just an example, last year there was a large lot almost in the middle of town and the construction of an apartment building on the east side of the town, and they had nowhere to put this fill and they piled it in the centre of town, a huge mountain of material. It was unsightly and there was absolutely nothing we could do with it because our zoning bylaws did not even cover the piling up of dirt. We only got them on a limit of the height, and even at that it was not a structure. So zoning-wise or building-wise, we had nothing to stop them. It is just that they use a waste piece of land and will pile up until they get somewhere to dispose of it other than there, and we have no idea how long it is going to be there. It is an unsightly mess, really, in the middle of town.

Mr Jordan: Maybe I did not make myself clear. I was wondering, this bill covers the dumping of waste materials, but it does not, in my reading, cover the storage. I noticed in the write-up that there was a problem with storing pipes and so on on this property, and I was wondering how you planned to control that.

1100

Mr Uldall: I think you are correct in that the legislation does not appear to incorporate your concern specifically. The legislation speaks of placement, but if your concern is more, for example, storage of toxic substances in specific facilities, I think that is perhaps outside the ambit of this proposed legislation.

Mr J. Wilson: I do not have any particular objections to the thrust of this bill. I may have some questions about the limitation and liability clause when we get to it a little later. I was wondering, more for curiosity than anything else, what type of fines are envisioned or will be envisioned in the bylaw when the corporation gets around to—

Mr Uldall: I think there was discussion that perhaps the new Provincial Penalties Adjustment Act would be applicable to the legislation.

Mr Pengelly: We have been leaving our bylaws recently open to the amendment made by Bill 92, which amended fines and terms of imprisonment, and it provided for a maximum penalty of $2,000. We just left it at that and left it at the judicial decision. I am also the prosecutor in Newmarket court for the town of Richmond Hill's bylaws. I wear a lot of hats.

Mr J. Wilson: I am wondering how the town can afford to have you here today. It is probably falling apart.

Mr Pengelly: It only cost a few dollars to come down on the subway.

I make my presentation and the defence makes its and a justice makes his decision. It would not really matter what penalty we put in. The justice is always the deciding factor. If they have cleaned up the thing, he takes that into consideration. If it is a real mess and they have not done anything about it, he also takes that into consideration. We leave penalties open under the Provincial Offences Act as it is.

The Chair: Are there any further questions by any members of the committee? Seeing none, are there any objectors or interested parties here as well? None? Are there any further statements and questions? Seeing none, are the members ready to vote on this?

Mr Sorbara: I am not familiar with the procedure. There are a number of amendments. Are they not handled now?

The Chair: I believe the process is that we deal with them as we go through and vote section by section.

Mr Sorbara: Oh, yes. I remember that. It is sort of like committee of the whole, is it?

The Chair: Yes.

Section 1:

The Chair: Mr Miclash moves that section 1 of the bill be amended by adding the following subsection:

"(3) No action lies against the corporation for any damages that may occur as a result of the placing or dumping of fill pursuant to a permit issued under clause (1)(b)."

Is there any debate on that amendment?

Mr Sorbara: Once again, a procedural question: I know that there are a number of less controversial amendments. Is it appropriate that all the amendments get moved at one time or what do you do? You would not know because you are just new here, but you have advisers.

The Chair: Yes. The other amendments will be dealt with when we go through and vote on the other sections of the bill. That is the traditional procedure, to deal with them as they come up during the sections. Debate on this amendment to section 1?

Mr Ferguson: I think the ministry's position is very clear on the matter. A number of other bills have been passed, a number of similar bills, and none of those bills have included this amendment. I really think we would be setting a dangerous precedent. What we would in fact be doing is encouraging other people to come through the front door asking for a similar amendment to their bills that have already been passed.

Mr J. Wilson: Perhaps the solicitor for the ministry could once again outline in layman's terms what the repercussions are of including this amendment, other than what the parliamentary secretary has stated.

Mr Melville: The entire legal effect of including this amendment is not clear because I am not sure whether it would stand up entirely if it were tested in court. I think the thrust of the amendment would be to protect the town from any liability resulting from the exercise of its discretion under this bill to give a permit for dumping of fill under any circumstances whatsoever. I think that is the intention. Our position is that this is too broad a power. Other municipalities do not have it. If the municipality should, in exercising its discretion, act negligently in some way, it should be liable just as anyone else would be.

Mr J. Wilson: To the representatives from Richmond Hill, if you do not have this particular clause inserted, is this going to worry you a great deal? Is it going to prohibit you from ever issuing permits? Will you be so overwhelmed with worrying about liability that you will never move on the bylaw?

Mr Uldall: Perhaps I could just reiterate that the thrust of it is that what we have seen in other municipalities, obviously, where no such limitation of liability exists is that the practical effect of that is that the legislation is not used. That is, I think, the most cogent and powerful argument in favour of the inclusion of such a clause. As to whether the town of Richmond Hill would be prepared to go forward without such a limitation included, it certainly would as far as I can appreciate.

Mr Sorbara: Just to speak to the amendment for a moment, and to the members of the committee who are—

Mr Ferguson: On a point of order, Mr Chair: Mr Sorbara, you make your presentation to the committee on behalf of the town. You are not a member of this committee. I do not think you can debate the clause-by-clause.

Mr Sorbara: With all due respect to the parliamentary assistant, I could, if I wanted to, ask one of my colleagues to step out and I could substitute for him. I am here as the sponsor of the bill. My name appears on the bill. If my friend Mr Ferguson thinks that somehow prohibits me from speaking to an amendment that is on the table, I am rather surprised, but I will leave it to your discretion, Mr Chairman.

The Chair: The precedent is that the sponsors of the bill can participate in debate on it, so we will continue with that precedent unless someone would care to challenge the Chair's ruling on that.

Mr Sorbara: With wisdom of that sort coming out of the Chair, I doubt it.

Just a couple of words: I do not think we need to prolong this debate, but the members who are sitting on this committee, most of them, as I look around the room, certainly the government members, are sitting for the very first time on this committee, or perhaps on any committee. I think the question arises, there is a conflict here. The town of Richmond Hill is saying that its experience in the community is that if you do not have this really qualified

limitation on liability—legislative counsel is right that it may not stand up in cases of negligence or gross negligence. The court might say: "Yes, the liability is limited. There is no liability under normal circumstances." But as a lawyer, I can tell you that courts have gone beyond this when a town or any other body acted recklessly or negligently.

The ministry comes here and says that this should not be included. The ministry says, "We haven't got a precedent for this." The parliamentary assistant is doing exactly the job that he is required to do under the precedents for a parliamentary assistant. He comes to argue the ministry's point of view. As chairman of the regulations committee over five years, I had ministers and lawyers come to argue the point of view of the ministry. There is nothing wrong with that. But you are elected to make a decision, not to simply ask the parliamentary assistant what the ministry thinks of this, that or the other thing. That is called bureaucratic government.

I can confirm that this is in a sense a breaking out of the typical mould for this sort of bill or this sort of authority, but not revolutionary. Perhaps it is not attractive to the New Democratic Party because it is not revolutionary, but it is not revolutionary. There are hundreds and hundreds of sections in hundreds and hundreds of statutes and thousands of other bylaws and court judgements which limit liability. What the town is asking for here is a workable private bill so that it can pass a workable bylaw.

You are not going to overturn the entire direction of the common law of negligence or statutory laws or bylaw-making in the area of a filling dump if you say, "Yes, we agree with the town that they in fact should be able to limit their liability under these circumstances." There is no question that the Ministry of Municipal Affairs does not want to do it because then other municipalities will come and say: "Well, look, you did that there. Can we talk about this here?"

You have an option. You can simply say, "Oh, well, the ministry does not want it so we had better not do it," or you can say, "Well, the town of Richmond Hill and other municipalities, by the way, really believe that they need it and therefore we are in favour of it and we are going to approve the amendment."

1110

The Chair: I think it is pretty clear what the positions are on this issue. I would like to bring this issue to a vote because we have other amendments and clauses and we have other business on the agenda this morning, so if there are no objections could we put this to a vote on the amendment right now?

All those in favour of the amendment to the bill? All those opposed? We have a tie. Yes. As Chair, I believe I am responsible for breaking the tie, and my vote is against the amendment to the bill.

Motion negatived.

Section 1 agreed to.

Section 2:

The Chair: Mr Miclash moves that clause 2(e) of the bill be amended by inserting after "Corporation" in the first line "a Ministry of the provincial government."

Motion agreed to.

Section 2, as amended, agreed to.

Section 3 agreed to.

Section 4:

The Chair: Mr Miclash moves that clause 4(1)(b) of the bill be amended by inserting after "owner" in the first line "of the land on which fill is proposed to be placed or dumped."

Motion agreed to.

Section 4, as amended, agreed to.

Section 5:

Mr Sorbara: If I might beg your indulgence, a word with counsel inasmuch as there may be another minor amendment that he wishes to put before the committee through one of its members.

Interjections.

Mr Sorbara: Legislative counsel is the supreme authority on these matters. There is no further amendment necessary.

The Chair: Then we shall continue on with the vote.

Section 5 agreed to.

Section 6 agreed to.

Preamble agreed to.

Title agreed to.

Bill, as amended, ordered to be reported.

The Chair: Thank you very much for appearing here today. With Mr Wilson's permission, Ms Poole has other engagements and with your indulgence we would like to move Bill Pr18 ahead of Bill Pr17. Do you have any objections? Thank you.

CONYORK CONSTRUCTION & ENGINEERING LTD ACT, 1990

Consideration of Bill Pr18, An Act to revive Conyork Construction & Engineering Ltd.

The Chair: We have the sponsor of the bill, Ms Poole. For purposes of Hansard, could we state the name of the applicant?

Ms Poole: The witness today is Elizabeth Gillis, who is a law clerk with McMillan, Binch.

The Chair: Would the sponsor like to make a statement?

Ms Poole: Certainly. Conyork Construction and Engineering Ltd was an Ontario corporation incorporated in 1974. It was dissolved in 1982 for failure to file its returns. The sole shareholder and director was declared incompetent and is currently residing in Alberta. The public trustee in Alberta has been appointed as his committee and is now in the process of winding up the estate. In order to accomplish that, they would like to sell the land. Since the land is held by the company, it is necessary to revive it. All returns have now been filed and all back taxes paid. My understanding is that it is fairly routine and that there are

not any other outstanding matters, unless Elizabeth has any comments.

Ms Gillis: That basically covers the position.

The Chair: Were there any questions or comments for the applicant regarding this bill?

Mr Ruprecht: Yes, Mr Chairman. As Ms Poole is supporting this, I have no hesitation in moving a motion which reads that the committee recommend that the fees and the actual costs of printing at all stages and in the annual statutes be remitted on Bill Pr19, An Act respecting the Oratory—this is the wrong one?

The Chair: It is another bill, An Act to revive Conyork Construction & Engineering Ltd.

Mr Ruprecht: Strike this out, then.

The Chair: Any further comments on this? Are the members ready to vote?

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Title agreed to.

Bill ordered to be reported.

INTERLOCK PEOPLE LTD ACT, 1990

Consideration of Bill Pr17, An Act to revive The Interlock People Ltd.

The Chair: Mr Wilson is now the sponsor of the bill in place of Mr Cousens.

Mr J. Wilson: Actually, Mr Chairman, Mr Cousens is the actual sponsor of the Bill. On his bahalf, I am pleased to submit for the committee's consideration an act to revive the Interlock People Ltd. The witness today is Brian Schneidman from the firm of Glaholt and Tamblyn, and I would defer any questions on the bill to him. I think the bill is self-explanatory; it is very similar to Bill Pr18. The bill itself contains explanations in the preamble of why this particular corporation needs revival at this time.

The Chair: Would the applicant like to make any comment at this time?

Mr Schneidman: Not at this time.

The Chair: Are there any questions from any of the members of the committee to the applicant?

Mr Sola: I would like to see whether the ministry has any comments on this. Usually we get an okay from the ministry that it has nothing against proceeding with these sorts of bills. It should have been posted to the last committee.

The Chair: We will defer to legislative counsel.

Ms Hopkins: I am advised that the government does not oppose the bill.

Mr Sola: Neither do we.

Mr Ruprecht: It is only because of Mr Cousens.

Mr J. Wilson: No, Mr Cousens's stand-in.

1120

The Chair: We will wait and see when there is someone who comes forward as a sponsor of a bill that Mr Ruprecht is maybe not as keen on and see what happens with those bills. At any rate, if there are no other questions, are the members ready to vote on this?

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Title agreed to.

Bill ordered to be reported.

ORATORY OF
SAINT PHILIP NERI-TORONTO ACT, 1990

Consideration of Bill Pr19, An Act respecting the Oratory of Saint Philip Neri-Toronto.

The Chair: The sponsor of this bill is Mr Mammoliti. Welcome. Would the applicants care to introduce themselves for Hansard?

Mr Mammoliti: I do want to introduce the witness, Mr Whiteacre, who is with me today.

The Chair: Okay. Would you like to make any statements on this?

Mr Mammoliti: Very briefly, and then I will hand it over to the witness. It is actually quite simple. The Oratory of Saint Philip Neri-Toronto, a corporation, has applied for special legislation authorizing it to grant certain types of degrees. The application represents that, in addition to other activities, it educates applicants for the Roman Catholic priesthood. In a nutshell, and the witness will go into detail, it allows us here in Ontario to be able to decide who receives what, basically. On that note, I will pass it over to the witness.

Mr Whiteacre: This is, as Mr Mammoliti said, a bill under the Degree Granting Act. The Degree Granting Act says that no one can grant degrees in Ontario without legislative authority. That authority is given by this committee.

The Oratory of Saint Philip Neri is an Ontario corporation. I will say that it is well known to Mr Ruprecht because it is within his constituency. Its objects are both charitable and educational. It is a monastery and a most unusual monastery in that all of the monks at the monastery have at least a PhD degree. They are a very learned group of people and that is why they are involved in training young people for the Roman Catholic priesthood. It is recognized as a seminary of learning by the Roman Catholic Archdiocese of Toronto, and its applicants come from all over North America so it is bringing business to Ontario. The head of the monastery is the Very Reverend Jonathon Robinson, former head of the philosophy department at McGill University, and the degrees that it grants are only in theology.

The Supreme Court of Ontario has given the seminary charitable status. There are Supreme Court of Ontario orders stating that the seminary is a charity and therefore is exempt from assessment and taxation under the Assessment Act.

I would ask that this committee grant this bill and allow the oratory to grant degrees to these young men who are training at the oratory. I would also ask that the fee that was submitted be reimbursed, in light of the fact that this is a charitable organization, and that the printing bill be waived. These are two things this committee is empowered

to do, and I would ask that your discretion be exercised in favour of that course today.

The Chair: Do we have any comments from the government on this bill?

Ms Hopkins: The government has no objections to this bill.

The Chair: Okay. Do we have any motions to the effect of the request, Mr Ruprecht?

Mr Ruprecht: I am absolutely convinced of the righteousness of this act because of Mr Mammoliti, who is sponsoring this bill. I have had the great pleasure to meet with Dr Robinson, Father Robinson as he is known to most people in our area, who has written a number of books, in case you are interested, in phenomenology and existentialism. They are very fascinating reading, especially at night after an important day at the Legislature.

The Chair: Mr Ruprecht moves that the committee recommend that the fees and the actual cost of printing at all stages in the annual statutes be remitted on Bill Pr19, An Act respecting the Oratory of St Philip Neri-Toronto.

Motion agreed to.

Mr J. Wilson: I have a simple question. The oratory itself is completely separate and will now be a degree-granting institution. Is it tied to the Toronto School of Theology at all?

Mr Whiteacre: Not at all, although some of the monks have taught at the Toronto School of Theology. This is a separate educational institution and is recognized as such by the Roman Catholic Church.

Mr J. Wilson: And there have been no objections registered from any of the other degree-granting institutions?

Mr Whiteacre: None whatsoever. As a matter of fact, it has been declared a seminary by Cardinal Carter.

The Chair: If there are no other comments, we will proceed to a vote.

Sections 1 to 10, inclusive, agreed to.

Preamble agreed to.

Title agreed to.

Bill ordered to be reported.

The Chair: Thank you very much for being here. We do have one other item of business, which the clerk has requested we go in camera to discuss.

Mr J. Wilson: What is the nature of the business?

The Chair: It has to do with printing fees on previous bills.

The committee continued in camera and adjourned at 1129.

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Le mercredi 27 mars 1991

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Chair: Kimble Sutherland
Clerk: Todd Decker

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 27 March 1991

The committee met at 1006 in committee room 1.

CITY OF LONDON ACT, 1990

Consideration of Bill Pr29, An Act respecting the City of London.

The Chair: Seeing a quorum, I will call this meeting to order. My apologies for being late. I had to partially attend another committee meeting. Welcome back. This is the standing committee on regulations and private bills, and our first order of business is Bill Pr29. I would like to call forward Mrs Cunningham, and I believe it is, Mr Blackwell, the city solicitor for the city of London. If you would care to come forward. Mrs Cunningham, would you like to make a short statement?

Mrs Cunningham: Mr Chairman, we have a vested interest, do we not, you and I?

Mr Ferguson: All in favour?

Mrs Cunningham: Great. Who called the vote? This Bill Pr29, An Act respecting the City of London, is basically explained, I think, just on the second page of the act itself. The purpose of the bill is to alter the composition of the London Transit Commission, which is the first part, and the second part of the bill would authorize the city of London to enter into agreements with the Western Fair Association. Mr Blackwell is very well versed on this legislation, and I think he should be making the formal presentation to the committee. I will just be here to answer questions if available; so we thank you for the opportunity.

Mr Blackwell: I do not know whether you want me to address both sections at once or whether you want me just to proceed with one and then have you deal with it and proceed with the other.

The Chair: Whatever you are most comfortable with.

Mr Blackwell: As Mrs Cunningham has said, actually this bill, I think, is very straightforward. Section 1, although it is rather extensive in its printing, is rather simple in its substance in that we are seeking merely to change the composition of the London Transit Commission. The number of members of the commission now stands at five and would remain at five, but the object of the change is to allow some flexibility in the numbers of elected people who might compose the commission from time to time. At present, there are two elected people, and it is proposed to give the council the flexibility of either remaining with those two or increasing the number to three. So the result would be that there would either be two elected people and three non-elected people or three elected people and two non-elected people. It is also proposed to continue with the present staggered term as far as non-elected people are concerned. Basically, that is the thrust. I understand that there may be a motion to make an amendment to the bill, and I have no instructions with respect to that.

On the other matter, section 2 really is a technical matter. For several years the city of London and the Western Fair Association have had agreements relating to the operation and use of land which is owned by the corporation and used by the association. We have just recently entered into another long-term agreement. In the past, our agreements have been enshrined in our private legislation. The present agreement contemplates some confirmation by private legislation. It is not proposed that the agreement be reproduced in total in private legislation but merely that there be some recognition through this act that both the city and the association have the authority to enter into the present agreement that they have. We would also propose to clean up some of the past legislation by repealing the old agreements and the old enabling legislation.

The Chair: Can I ask for some comment from the parliamentary assistant to the Minister of Municipal Affairs.

Mr Ferguson: The Ministry of Transportation supports the application, as it feels it would bring some political and fiscal accountability by giving council the ability, number one, to control the composition. The Minister of Municipal Affairs wrote Mayor Gosnell on 22 January to say that the ministry does not support the term of board members which extends beyond the term of the appointing council. I think members of the committee can appreciate that the policy is aimed at giving the newly elected council the opportunity to make appointments it considers appropriate and to ensure accountability to that council as well as to the electorate.

I understand an amendment will be proposed at that time. From the solicitor's comments, I understand that London city council just tabled the letter and has not taken a position on that. We feel it is important that the council of the day appoint the people it deems fit to any local boards or commissions.

The alternative to that, of course, is that the previous council can appoint to a term extending beyond the term of its present mandate. However, in order for the incoming council to overturn that decision, it must revoke the appointments, and I think most members of the committee can appreciate that that puts city council in a very precarious position in order to have to revoke membership of a standing committee, board or a commission rather than appoint.

Mr Chiarelli: I am curious as to why you want the option. Obviously, the question is a question of control on the commission. If council appoints three, then council will have control of decision-making in the particular body. If it appoints two, then control would be off council. If it is for fiscal responsibility, why not simply accept the fact that you want control and appoint three? What would be the factors in any given council, at the start of any council term, that would be discussed to decide whether there would be two or three appointed from council?

Mr Blackwell: First of all, the decision to seek this change is one which was initiated at the elected level and not the administrative level within the city of London, so I should explain that. To that extent, therefore, I am somewhat limited in being able to rationalize totally the reasons why this is coming forward. However, having said that, I think there are some points that I can make.

First of all, the function that the London Transit Commission is carrying on is indeed one which could be carried on by the municipality itself simply operating the transit function as a civic department. To that extent, therefore, the desire to have a majority of council members on the commission is sort of consistent with that concept.

I think, second, part of it may be workload so far as each individual council is concerned and the priority which it may or may not give to transit matters. A particular council may feel in a particular situation that it is content to have the commission operate with a majority of citizens who are well attuned. Their attitude may be greater public participation. Another council coming in may feel that the policies which the commission should be following should be more closely tied with policies that the council is pursuing on transportation matters at that particular time.

So I think that really, as I see in it, what the council is attempting to do is give each individual council the flexibility of saying, "Well, we'll have a greater degree of public participation at one point," or, "We feel that we want to emphasize or give greater direction to transit at another stage," then we've got the capability of doing that.

If I might just speak very briefly to the proposed motion, I should point out that under subsection 1(3) there is of course the right of each individual council, when it comes into office, to decide before 15 February how the commission is to be composed for the duration of its term. Therefore, each incoming council is not necessarily fettered or obliged to accept the composition of the commission that existed under the previous council.

Now, I have digressed and I do not know whether I fully answered the question that you asked.

Mr Chiarelli: I just find section 1 a very curious provision and I was curious to find the rationale behind it I certainly will vote in favour of it, because I support the local option as much as possible in this type of administration, but it is obvious that there is a lot of leeway for playing politics with the particular commission with this type of provision.

Mr O'Connor: You have the motion before you, as amended. I would just like to touch on a few different points. As far as the fiscal responsibility, that lies within the council that would see the members appointed, and if that council then had the option of ensuring that the members were not there for any longer than the term appointed, as the council is, then I think that would be a friendly amendment. As far as the public view, I think it would then give the chance for public participation to take greater effect through municipal elections. I think that it could be used as a well-positioned point for the electorate of that municipality to see their rights not ignored, and the council that is elected.

Mr Blackwell: I appreciate that. I think one of the aspects of what London is seeking is the aspect of continuity. One of the problems I guess in having the term of the transit commission coincide with the term of the council is that there is a prospect that you could have five new members who come on the commission without having had any prior experience or exposure to transit matters. That may be desirable or it may be undesirable, but certainly the motion would preclude the opportunity of having continuity where there might be merit in having that.

One of the core principles, or wishes I guess, in our council wanting to have this legislation is the opportunity of continuity.

Mr Sola: I am interested in the reason for this bill. Has there been any friction between the board and council to date to cause you to come up with this bill?

Mr Blackwell: From my vantage point, there has not. That is not to say that there is not from time to time some comment or some complaint with transit operation. I think that is typical of any transit operation. But certainly from my vantage point, the commission and the council have operated amicably and co-operatively and there is no dissension that I have discerned.

Mr Sola: Going back to Bob's point, this amendment would not be necessary if subsection 1(3) just said "three members of the commission." If you guaranteed that three members would be elected, then you would have the continuity by having two people who would override the term of the elected officials, and still have control in city council's hands by having three elected members on the board.

Mr Blackwell: Even if the number of elected people was fixed, say, at three, there would still be the aspect of a staggered term probably for non-elected people and you would still get a non-elected person bridging one council into another council. Of course, the motion that is here would prevent that from happening.

1020

Mr Sola: Yes, but I think the motion that is here wants to maintain control in council's hands, whereas if you guaranteed three members of the commission being elected members, the control would be guaranteed and then there would not be this fear of overlapping, of the non-elected members having longer terms than the elected members. You would have the continuity of experience, guaranteed experience, as well as having change on the commission.

Mr Blackwell: Quite frankly, I do not see the relationship between the split between the elected and the non-elected people and the concept of carrying a non-elected person from one council term over to the other, because as I see this motion, the proposal is that everybody's term comes to an end when the council's term comes to an end.

Mr Sola: One other question: Are any local groups opposed to this move?

Mr Blackwell: If they are, we have not heard from them.

Mr J. Wilson: Just to continue to play devil's advocate, you did mention in your remarks, Mr Blackwell, that

effectively council will then have control of the commission, but you said that council may very well be able to run this transit service as a department of the city. Then why is not council coming to us and saying, "Let's get rid of the commission and save the taxpayers some money"?

Mr Blackwell: The commission was set up I think around 1951 or 1952 as a separate board and a separate corporate entity from the corporation and it has worked well on that basis. Immediately one of the problems with dissolving the commission is that then the corporation takes on all the assets directly, the collective agreements and all the arrangements. From the status or the nature of the operation so far, there really has not been perceived the need to do that, and I am not sure that necessarily it would be that much more cost-effective to bring it in as a civic department and eliminate the commission. The commissioners are not paid that much anyway, and certainly the backup staff would be the same under either situation.

Mr J. Wilson: Just as a point of clarification for the second part and the Western Fair Association, is this in this act because we have to annul the previous agreements because they were entrenched in provincial legislation?

Mr Blackwell: That is one of the purposes of it, yes.

Mr Ferguson: If I can just further add, the purpose of the proposed amendment is to permit the current council of the day to appoint members of the commission. We think it would be most unfair to saddle London city council with perhaps two or three commissioners of transit that perhaps it does not want to see on the transit commission. If the new council comes in and it likes the work of the previous members of the commission, it has the ability to reappoint them. It can exercise that option, so I really think it is something of a green herring. It used to be red until we got elected.

The Chair: Are there any objectors or interested parties to this bill? Seeing none, any additional statements that anyone would like to make at this time?

Mr O'Connor: Can I move the amendment then?

The Chair: Mr O'Connor moves that subsection 1(4) of the bill be amended by adding at the end, "but no such members shall hold office beyond the term of the council that appointed them."

Mrs MacKinnon: I am having a problem here. There are some people going to be appointed to the commission. Am I correct?

The Chair: Yes.

Mrs MacKinnon: And they could be either two or three. When this council is finished, they are finished also, so therefore that leads me to believe there is not any continuity here whatsoever.

The Chair: No, that is not correct. My understanding of the bill would be that the new council could reappoint some of the same people.

Mrs MacKinnon: Oh, I quite agree. I quite understand that, but there is no guarantee. Am I correct? Having been on a board where out of 18, 17 of us were brand-new, it was really terrible. I just need some explanation, that is all.

Mr Ferguson: No, there is absolutely no guarantee, but we think it is important that the present council appoint the individual members who it sees fit and if there is a wholesale change, much the same as perhaps a wholesale change in the government of Ontario, let me tell you that things will not come to a grinding halt. The buses will still run; passengers will still be picked up. There might be some delay in some of the policy decisions, as we all are very well versed with, but that be as it may, that is the price of democracy.

Mrs MacKinnon: Oh, well, thanks for the explanation. I understand that better now. I had visions of those buses being stopped and people being stranded.

Mrs Cunningham: The concern that Mrs MacKinnon raises, of course, is the concern that goes with this resolution, there is no doubt. But you are right, Mr Chairman, the council can reappoint. But right now there is a built-in plan, and I think that if Mr Ferguson would just reiterate that it is not the intent of this motion that the council not be able to have some continuity, it makes it easier for both of us when we go back to let them know what your intent is.

Mr Ferguson: Absolutely. It would certainly be up to council. If they have a desire to reappoint, that would be their prerogative.

Mr Chiarelli: I think local administration should have the right to make its own mistakes and get involved in its own politics. I think this is a bad law. I said I am going to vote in favour of it because obviously the council has endorsed this particular legislation, but I would like to ask Mrs Cunningham if she can indicate in her opinion whether or not the people of London, if they were fully informed, would support this act.

Mrs Cunningham: I have the same responsibility as you do, Mr Chiarelli. The council has made this decision. I think Mr Blackwell stated it very well and that is that there is a difference of opinion as to how many elected people should be on the commission. My view is that there will probably be three. That is my guess and that is what I think the council was looking for, because it put the numbers in "two or three" to give it some flexibility. I think that elected council represents the public and represents it well in London and this is what it has chosen to do. In my job I am here to support them and I do not see any problem with this. It gives them more flexibility and as a local council I think that that is what they need and want.

Motion agreed to.

Section 1, as amended, agreed to.

Sections 2 to 6, inclusive, agreed to.

Title agreed to.

Bill, as amended, ordered to be reported.

1030

CITY OF YORK ACT, 1990

Consideration of Bill Pr52, An Act respecting the City of York.

The Chair: We will now move on to the next bill, which is Bill Pr52, An Act respecting the City of York. The sponsor of the bill is Mr Rizzo.

Mr Rizzo: Mr Chairman, I am here to support the bill on the city of York and I want to explain first what the situation was prior to the new legislation passed in 1984. Before 1984, the board of health in the city of York was made up of citizens nominated by council. City council was able to appoint a medical officer of health. We were—council was—I am sorry, I say "we" because I was a member of council then—able to hire almost all employees. All the nurses were employed, though, by the board of health and council was able to appoint an auditor.

There was a change in the bill in 1984. At that time there was an application by four of the municipalities of Metropolitan Toronto; namely, Toronto, Scarborough, North York and Etobicoke. They applied to retain certain authority. Because of lack of communication between the medical officer of health and city council, the city of York council was not able to apply for the same right and therefore the bill was changed as presented without any input from city council.

After that, when the council was made aware of the situation, council decided to appeal to the government of Ontario to change the bill to reflect a situation that, according to it, was more affecting the needs of the people in the city of York. As a consequence to that, the city of York council appointed itself as board of health, I think after the election in 1988. What they want to do now is go back to appoint citizens as members of the board of health, rather than do it themselves, and I am here to support that principle.

George Bartlett, the city solicitor, is here also to give more explanations about the application, about any other questions that may arise from this committee.

Mr Bartlett: The situation, as the member has indicated, is that historically there was a situation existing in York where the municipality appointed the MOH and appointed a significant number of the staff that performed health functions for the board of health and also appointed the auditor. When the Health Protection and Promotion Act was being proposed and presented the ministry did carry on consultation with—my understanding is—the MOHs of the various regions of the province and various health boards, various municipalities, and with staff of the boards. At that time it was pointed out to the ministry that a number of the Metro area municipalities were in a unique situation in terms of the staffing arrangements that had developed in the Metro area. Four of the municipalities' staff received instructions from their council to request a change to the Health Protection and Promotion Act to reflect the then existing arrangements. That was included in the act when it was passed, in section 59.

As the member has indicated, through a lack of consultation at the local level in the city of York, the interest of the city council in having a similar arrangement was not communicated at that time and the city of York was not put in the same situation as those other four Metro area municipalities. The purpose of this bill that is before this committee today is to restore that equity with the other Metro area municipalities and to put the city of York in the exact same position.

York and the Metro area municipalities do differ from the other health units across the province in a number of significant respects. I guess the two most significant are, first, that the health unit boundaries coincide with the municipal boundaries, so they are coterminous. Second, the cost-sharing arrangements that the province has with the municipalities are different. There are certain services in which the province picks up a larger share, in many cases 100% of the cost, for all municipalities, but in the basic services, essential services, mandatory services, in most of the province the province picks up 75% of the cost of those programs. In the city of York and the other area municipalities within Metropolitan Toronto the province only picks up 40%. So in that sense, a larger proportion of the cost is borne directly by the local taxpayers of the municipality and in that respect council is responsible for that act. Under the terms of the act, the board of health sets the budget. The amendment that is proposed here is partially to redress that situation and to give council, through the staffing decisions, an element of greater control.

I would flag that under the act, as I indicated, the levels of certain services, the mandatory programs, are set by the province. Those will have to, by law, continue to be provided, but the intent of the legislation is to provide more flexibility, more local council control of how those services are provided and more direct control of the cost of providing those health services at the local level. That, I would submit, is consistent with policy and the approach to a greater local control and a greater say directly by the representatives of the taxpayers, who are paying the greater share of the cost of those programs.

Mr Ferguson: The Ministry of Municipal Affairs has no objection to what is being proposed. I just want to point out for the committee members' information that generally across the province of Ontario, health care programs are cost-shared 75% by the province and 25% by the local municipality. In some instances, of course, the province pays 100% of the cost. In this particular situation, as well as other municipalities across Metro, the general rule of thumb is that the municipality is paying 60% of the cost and the province is paying 40% of the cost. That, of course, led to previous requests by some of the other area municipalities in Metro Toronto.

While Municipal Affairs has no concerns, we do have some people here this morning from the Ministry of Health. I would like them to introduce themselves and perhaps they would like to comment on the bill.

Dr Schabas: My name is Richard Schabas. I am the chief medical officer of health with the Ministry of Health.

Miss Wysocki: I am Cezarina Wysocki, counsel in the Ministry of Health.

Dr Schabas: The Ministry of Health is opposed to this bill, and that opposition is supported by the Minister of Health. The ministry has opposed similar pieces of legislation in the past few years on policy grounds. In fact, I met with the council of the city of York a little over a year ago to discuss this proposal and indicated to them at that time that we did have policy objections to this kind of initiative.

The real issue from our standpoint is the autonomy of the board of health. Our legislation is crafted in such a way as to create autonomous boards of health that do in fact

have representation from the various important interests, including the municipal interest, community interest and provincial interest, but the board of health should in fact be able to exercise some real autonomy, particularly from the municipal influence.

The current situation in the city of York is that the city of York has the authority to appoint nine municipal appointees to the board of health. While in theory the Minister of Health could appoint up to eight additional members—in other words, the city would still appoint the majority of the membership—in practice, historically, the minister has only appointed one or two provincial appointees, which means that the city has in fact appointed in excess of 80% of the members of the board.

The staff are currently employees of the board of health, a staffing arrangement that is similar—identical, in fact—to 29 other boards of health in the province, and it is the board of health that establishes what the necessary levels of staffing are, what the resources are that must be allocated for adequate program delivery.

The cost-sharing in Metro Toronto is in fact different from the rest of the province for the general programs, but it should be pointed out that even within Metropolitan Toronto the funding is essentially split approximately 50-50 between the municipality and the province.

The history of section 59, which is the current section that gives a special status to four of the municipalities in Metropolitan Toronto, as I understand, it was really a kind of grandfather clause that was put in place at the time of the new Health Protection and Promotion Act as a recognition of the unique employee status of people in those municipalities. It was not put in place as a desirable policy end, because in fact it sticks out as being quite different from the staffing arrangements elsewhere in the province. It was merely put in place as an expedient of what was considered to be a difficult staffing situation.

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I think the real issue here is one of control, in particular control of the budget and of staffing levels for public health programs. The section very clearly says that the municipality not only hires the staff but also gets to set the level of staffing. It is certainly the position of the Ministry of Health, recognizing that staffing represents about 90% of the costs of a board of health and so control over staffing effectively represents control over the budget and the resources of the board of health, that we support some level of autonomy for boards of health in that area of establishing their budgets, and feel that the municipal interest is more than adequately represented in the current level of appointees to the board.

Mr J. Wilson: I am trying to get a feel for how medical officers are appointed now exactly.

Mr Bartlett: By the board of health.

Mr J. Wilson: What is the makeup of the board of health?

Mr Rizzo: One council now plus two provincial appointees.

Mr J. Wilson: As far as I can gather from your comments, your impetus for doing this is to bring you to parity with the other municipalities in the area.

Mr Rizzo: In Toronto.

Mr J. Wilson: Do you think that is a good, sufficient reason?

Mr Rizzo: I do not see any reason why the city of York should be treated differently from the other municipalities in Toronto.

Mr J. Wilson: If council was given the authority to make these appointments, have you got a selection process in mind?

Mr Rizzo: We had a selection process applied for many years prior to the change in the legislation, so we want to go back to the situation that the city of York was in prior to 1984.

Mr J. Wilson: What was that?

Mr Rizzo: Where the city council was able to appoint its own MOH, its own auditor, and the city was responsible for the hiring and firing of the larger part of employees of the board of health.

Mr J. Wilson: If this bill went through, council would effectively have control over the board of health and I think the Ministry of Health has made the point that that would certainly mean budgetary control. Do you have any comments in response to the chief medical officer of health's comments?

Mr Rizzo: What the city of York wants to do is give back control to a board of health composed of people who are in the community rather than politicians. That is exactly what they want to do. The only control the city council would have is control on the budget. But in relation to the programs, there is no control because there are so many programs that are mandated by the province.

Mr J. Wilson: If you control the budget, do you not control the programs? I think that is a point.

Mr Rizzo: No, because there are some mandated programs that had to be impiemented. It makes no difference if the board of health is made up of members of council or members of the community.

Mr J. Wilson: Mr Bartlett, it looks like you want to say something.

Mr Bartlett: Just to clarify that, under the regulations that are in place now prescribing the number of municipal members on the board of health, the regulations prescribe that the board of health will consist of nine municipal members, who are in effect nine municipally appointed members. What council members have done in the current situation is appoint themselves to get that level of control since they are the parties responsible to the public for the amount of money that is being spent in that area. There are, as indicated, two provincial appointees as well.

The council, as I understand it, is desirous to allow greater public involvement by having citizen appointees to that board. But they are not happy to do that when that board can then take full control of the budget situation and take it totally out of the hands of the council—the council

that is responsible to the public taxpayers for the amount of money spent. As indicated, under the act and regulations there are mandatory programs every health unit has to provide. Those are mandated by the province. If the bill was passed council could not back away from providing those services. Council would still have to provide those services. There is a provincial interest in this and they are mandated and mandatory through the act and regulations.

What council is concerned about are matters beyond that, that an autonomous board would have the right to bring in programs and pass the cost on to the taxpayers, or the municipality largely, without being accountable directly to the taxpayers. It is the council that is accountable. The intent of the legislation is to give that element of control to the body that is accountable to the public for it and to allow council to take the logical step and the next step, which is, as I understand it, consistent with the provincial policy to appoint a citizen, non-elected board of health made up of members who are not members of council. That is what council would like to see, and this legislation would enable it to do that, while at the same time retaining the element of financial control that it feels it has to retain to be responsible to the ratepayers and taxpayers.

Mr J. Wilson: Without commenting on the fairness of the recent press coverage of this particular council, I am personally leery of giving this council any more authority to appoint anyone anywhere. I would like to know what type of safeguards are in place or what the system would be in appointing these citizens to the board of health if this bill were to pass.

Mr Bartlett: The legislation dealing with the boards of health, the Health Protection and Promotion Act, deals with the appointment of the board and it governs how it is appointed and its term. They serve at the pleasure, basically, of council.

Mr J. Wilson: So it would be in accordance with that act.

Mr Bartlett: Yes, it would be in accordance with that act, but as I say, right now council meets basically as the board of health, with two representatives appointed by the province. The intent of council is to back away from that because it finds that it cannot give the attention that it should to that and it would rather have citizen appointees. But they are not prepared to do that as long as the board has full control of its own budget and without being responsible directly to the taxpayers who have to pick it up.

Mr Chiarelli: So what you are saying then is that if this bill were to be passed, notwithstanding this bill, the health board would be required to do everything that the province requires of it. That will not change in any way.

Mr Bartlett: That is what I understand. There are mandatory services prescribed under the act and regulations and every health unit in the province has to provide those.

Mr Chiarelli: The additional flexibility that you are asking for presumably would give you the opportunity to use municipal funds to advance more health services to the community. Is that correct?

Mr Bartlett: It would give council more flexibility to decide how to meet those services, what staffing we should provide to do it, what type of staffing and maybe provide—I have not thought it through totally, nor has council perhaps—more flexibility, maybe shared staffing so that as time arises and something more is required of the public health field, staff could be shuffled to that without having to go out, as a separate body, hiring more staff.

Mr Chiarelli: From a practical point of view, if you cause more services, more staff to be created, are you going to be knocking on the ministry's door to have that funded?

Mr Bartlett: No. As I understand it, the funding arrangements are prescribed by the regulation. There are certain types of services, the child guidance clinic I think is one example, where the province does pick up 100% of the cost. There are other services, I think in the AIDS field for instance, where the federal level of government picks up a large share, if not 100% of it. In other areas, as I understand it, it is 75-25.

Mr Chiarelli: Is that what is happening in the other municipalities, North York, Scarborough, etc, the four municipalities that have been grandfathered? Is that what is happening in those places?

Mr Bartlett: My understanding is, yes, that those municipalities provide the staff to do the functions required of the board of health. That is what this would establish in the city of York.

Mr Chiarelli: I would like to ask a question of the ministry representative. First of all, is the ministry intending to leave this grandfathering in place for these four municipalities, or is there any action imminent to change that at the present time?

Dr Schabas: We are reviewing on a policy level the governance of boards of health, but there is no immediate intention of bringing forth any changes in the legislation. There is no agenda for doing that at the moment.

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Mr Chiarelli: Could you repeat again why you would not want to give this municipality the same benefits, the same flexibility to provide additional services, maybe more direct services to the community, as the four that have been grandfathered? I accept the fact that a grandfathering decision was made, but that does not necessarily have to be carved in stone. That is why we have provision to amend legislation in this manner: to accommodate changing requirements, needs or requests.

Dr Schabas: I must say I am a little puzzled by the notion that this amendment would in any way give the council greater flexibility to provide health services, since the public health services are provided through the board of health and all the flexibility to do that, in fact the ability of the council to strongly influence what happens at the board of health, is already in place. Again, it is my understanding that the section was put in place as a matter of convenience, not as a matter of policy, to prevent disruption in those four municipalities that would have entailed

having them fall in line with the other boards of health in the province.

I am somewhat puzzled by the argument that seems to be being put forward that this is being done in the interests of promoting the autonomy of the board, because the net result is perhaps a more autonomous board but a board that has a great deal of its authority removed from it.

Mr Chiarelli: Okay, maybe you could describe for the committee what the difference is now, the practical difference in terms of budget and delivery of service to the community between the four communities that have been grandfathered and the community that is making this request.

Dr Schabas: The practical differences are that the boards of health in those two municipalities in Metro Toronto that do not fall under section 59 and the 27 other boards of health across the province, by and large—and again, it is hard to generalize because you are dealing with a number of individual situations—have been more successful at promoting the delivery of public health services. They have been more able to obtain the approval and, in some cases, the funding that is necessary to enrich the services. There has been in fact considerable mention made of the mandatory programs. The minister has the authority to set mandatory programs.

Mr Chiarelli: You are saying that this is a backward step, then.

Dr Schabas: Yes. My concern is not so much with the mandatory programs, but I think you should understand that for any board of health in the province there are two kinds of programs provided. There are those that are provincial in nature, that are provided by every board of health across the province, and that is what is set down in the mandatory health programs and services guidelines by the minister, and there are also what we call optional local programs, which are meant to deal specifically with local needs. Most boards of health provide a balance of those two kinds of things.

So the notion that council is committed to providing the mandatory programs—but I am not sure I am hearing the same commitment, and in fact my concern would be that there would not be the same commitment to some of the very excellent and fine local programs that the city of York has provided in the past. That would seem to me to be at least part of the agenda here.

Mr Chiarelli: I would like to ask counsel to respond to the points that you have just made.

Mr Bartlett: The suggestion there is that there is a hidden agenda here to cut back on the discretionary programs. As I indicated, the current situation is that the council has effective control of the board of health by appointing itself to it. It does not need this to do that, if that was its hidden agenda. I have no reason to suspect that that is part of a hidden agenda. What council wants to do is permit and provide flexibility where it can comfortably provide for a citizen-appointed board but at the same time exercise its responsibility to the taxpayers of the city of York and to have that balance, in effect.

As things stand now, they have appointed themselves to the board as a means of doing what they feel is their duty to their ratepayers in York and they would prefer to back away from that and to appoint a citizen board. To say that the intent is to cut back on discretionary programs, I have no indication that that is the effect. But it is I think consistent, as I indicated, that if they are picking up the large share of the cost of these programs—and in terms of these programs they pick up 60%—they are responsible to the taxpayers of the city of York to ensure that they are appropriate programs and that the cost is weighed against the benefits of those programs.

They can do that, correct, through the staffing situation or they can do it by being members of the board of health, and they would like to do it and have this say, if necessary, through the staffing, but at the same time appoint citizen members to the board and meet that policy objective.

So I see it as the best of both worlds, in effect, to do what the city of York council wants. It provides the necessary level of control by the party that is paying the bills but at the same time encourages citizen involvement, encourages the exploration of possible new programs. But it has that second check that, with all due respect to Dr Schabas, in my mind is very appropriate and to our council is very appropriate.

Mr O'Connor: Thank you for coming here today. Just a couple of different things. There were no precedents for this bill to be drafted, yet there has been some way that the other four were grandfathered into it. Could you explain a little bit of that to me—I am just a little bit lost there—someone from the ministry?

Miss Wysocki: If I may, sir, I was the counsel when the Health Protection and Promotion Act was drafted, and quite frankly the government's intention at that point in time was to regularize the whole situation with boards of health in the province. The original bill provided for a board of health with the ability of that board of health to engage a medical officer of health and all employees that were necessary for the provision of standard programs. The main feature of that bill was to provide within the province a standard public health service. Up to that point in time the service was really fragmented. Boards of health had the option of providing whatever type of programs they wanted, and the province did not have any ability at that point in time to require a standard service of public health. My recollection is that the city of Toronto had provided the board of health with civic employees. These employees were part of a city of Toronto department. It was called a municipal department of health.

The board of health really functioned as a policy body. When the ministry said that it was time to regularize and confer on boards of health similar authority, the city officials said that they were quite opposed to it on a matter of principle. There were such things as vested pension rights, the whole thing. They felt that it was very difficult to change the status quo of the civic employees. They were part of the Ontario municipal employees retirement system, OMERS as I recall, and they asked if the province would regularize that situation and confer on the council of the city the authority to engage the services of the employees, provide them to the board of health. The legislation is quite

clear that it is the city council that determines the numbers needed for the provision of the services.

Just as counsel for the city of York has indicated, there was a grandfathering provision. But this was not to be the principle that prevailed with respect to boards of health. I must point out that the composition of the board of health is provided for in the regulations under the Health Protection and Promotion Act. Indeed, the qualifications of the members to the board are prescribed also in regulation. So at any given point in time, say in the situation that we are addressing today, the nine municipal members appointed by the council to the board can be varied.

The regulation can be amended to provide for citizen participation. There is no problem whatsoever. The fact of the matter is that the government, over a period of time, has been concerned with the provincial representation. The intent prior to this new government was to hopefully enlarge provincial representation so that you would have more representation from the government, which pays 75% of the core programs, the mandatory programs. I see no difficulty in amending the current regulations to accomplish what the city of York would like to accomplish.

1100

Mr O'Connor: So perhaps maybe what we need to be doing is looking at some provincial legislation instead of this private bill.

Is there any different treatment to this council than to the other four that were grandfathered in? Could you just explain some of the difference there for me?

Miss Wysocki: As I understand it, the current board of health is an employer of the employees. It hires and fires. What would happen would be that you would have a board of health that would be divested of that authority. It would not be an employer. The council becomes the employer. The council also then appoints the medical officer of health, subject to the approval of the minister. So what you have is largely a policymaking body without any really legal powers. That is the difference: You have a fully operational board of health. Here in this proposed bill, what you do is you confer that authority on to the city council.

Mr O'Connor: So the regulation then has actually improved the delivery of service through section 59, or through the whole bill, I guess, itself, the Health Protection and Promotion Act, it has actually improved the delivery of service so that this board of health should actually be gaining out of this in the delivery of its service to its citizens.

Miss Wysocki: Yes.

Mr O'Connor: And there is room for citizen representation as it stands now.

Miss Wysocki: Exactly, and I might say that the city of Toronto board of health has resident ratepayers on the board of health, so there is no disability currently to provide citizen representation on the board of health as the city solicitor is suggesting.

Mr O'Connor: Just one more to further that: We have citizens represented. We have—

Miss Wysocki: Provincial representation.

Mr O'Connor: —provincial representation. We have the elected municipal representation. Is there any provision there that we have people who actually deliver the service be represented, or people who would be consumers of that service?

Dr Schabas: Not unless either the municipality or the minister chooses to appoint any such people.

Mr O'Connor: So there is no requirement.

Dr Schabas: There is no requirement, no, but it is the practice, particularly in the Metro Toronto boards of health, that both the province and the municipality appoint community people to their boards, and that, until a couple of years ago, was the practice in the city of York.

The Chair: I have Mr Ferguson, Mr Wilson and Mr Chiarelli. I would just remind members of the committee that it is now past 11, we have another bill we have to do, another one we need to have some discussion on, plus some organization, so I would ask you to keep your question as brief and to the point as possible.

Mr Ferguson: Mr Chair, I would like to move that we take no action at this time with respect to Bill Pr52. If I could speak to it for a moment, I think the reality of the situation here is not whether or not the municipality is going to carry out the mandatory health programs. In fact, they have to; they do not have any option. That is the basic level of service that is afforded to everybody across the province of Ontario. I think the real issue here is whether or not you are going to trust the city council to appoint its own medical officer of health as well as the associate medical officer of health. I really question whether or not we ought to be doing that at this time, and I think for some obvious reasons.

The other reality of the situation is that having been through the process of trying to attract a medical officer of health for a rather large municipality, I want to tell you, with all due respect to my friend here, that they are not lining up at the door. The regional municipality had to advertise not only nationally but then internationally exactly one year ago, and out of the amount of advertising, they secured two prospective medical officers of health. Two individuals applied for the position. Let me tell you, that is no reflection on the amount of pay, working conditions and/or the region of Waterloo. It is just that the medical profession, by and large, can make a lot more money practising with a private practice rather than with the public service. Those are just the bare facts of life.

In any event, I really question whether or not we want to charge the city of York with this responsibility at this point in time. So I do not think we ought to be saying no flat out. I think we can look at it at a future date.

The Chair: So you are moving deferral then.

Mr Ferguson: Take no action at this time.

Mr J. Wilson: How long a deferral are you contemplating?

Mr Ferguson: I think it is open-ended.

Mr J. Wilson: Are we going to see it at the next meeting or the one after that?

Mr Ferguson: No, no.

Mr J. Wilson: We deferred a matter at the last meeting and it is back at this one, so deferrals are not necessarily that long. My option would have been to flatly vote no, but we will support you.

Mr Ferguson: I can live with that as well. They can always reapply. If they reapply and reapply, we cannot stop them. That is a friendly amendment to the motion, sure.

Mr J. Wilson: I would say you have given them an awfully big hint.

The Chair: Okay. I am not too sure if that constitutes a friendly amendment. I believe it constitutes a major change to the motion. Mr Ferguson, are you withdrawing your motion then?

Mr Ferguson: I will withdraw mine.

Mr J. Wilson: Let's go to a vote, Mr Chairman.

The Chair: Mr Wilson was next on the list and his motion is a motion to defeat Bill Pr52. Any further discussion on that? Mr Chiarelli.

Mr Chiarelli: I think the issue of defeat has relevance to the rationale why this particular bill is being brought forward at the present time. Perhaps you can give some of the background. Were there any compelling problems in the relationship between council and the board at the present time? Is there an unhealthy tension between the medical officer of health or deputy medical officers of health at the present time that would be compelling the community to want to do something that is in the public interest? Or is this strictly a sterile administrative reform that you are trying to bring forward at this point? Perhaps you can give some of the background on that, very briefly.

Mr Bartlett: Very briefly, there is no immediate situation of the tenor you are asking about as the reason it is brought forward at this time. At this time, as I indicated, council basically is the board of health with two other provincial appointees, so there cannot be much of a conflict between the board of health and council. They are largely one and the same at this point in time.

The purpose of the bill—and it has been a request basically that the city has been making since the discrepancy was discovered in 1984—is to put the city of York in the exact same position so that we can operate in the exact same way that the city of Toronto, the city of Scarborough, the city of Etobicoke and the city of North York operate. We just want to re-establish that parity between the city of York and those four municipalities. That is the intent and, as I indicated, to allow council, with the competence that it needs as to the programs and the cost of those programs, to back away and have the competence to re-establish a citizen board.

Mr J. Wilson: On a point of order, Mr Chairman: I think the way you left it was that Mr Ferguson would withdraw his motion and I would have a motion on the table to defeat the bill. I do not want a motion on the table saying that. I would prefer we just go to the bill itself and have a free vote on the bill.

The Chair: Okay. You want to move towards a vote then.

Mr J. Wilson: Yes.

The Chair: Okay. Sorry, that was my mistake. If that is the case, that puts us into a voting procedure. We will have to end the discussion at that point and put it to a vote.

All those in favour of Bill Pr52? All those opposed to Bill Pr52?

The bill is defeated.

1110

TOWN OF MARKHAM ACT, 1990

Consideration of Bill Pr38, An Act respecting the Town of Markham.

The Chair: We will now move on to the next bill, Bill Pr38, An Act respecting the town of Markham. The sponsor is Mr Cousens, if he would care to come forward with the applicants.

Mr Cousens: With me, representing the town of Markham, is Robert Robinson, director of legal services; Susan Casella, the heritage chairman for the town of Markham, and Brendan O'Callaghan.

We are pleased to bring forward Bill Pr38, which has a precedent in the city of London, very similar to a bill that went through just before Christmas, and it is also something that exists in the city of Toronto. What it really will do is give the town of Markham some control over the demolition of very valuable old homes. In fact, I have with me two tapes that are going to be shown on the Queen's Park system and have been put together by our own historical society in Thornhill showing some of the heritage homes. So I will make sure that all members of the Legislature have a chance to know it is on. Whether we have time to watch it is another thing.

Mr Ferguson: Are you in it, Don?

Mr Cousens: I am not in it. I checked it through last night.

I have been in a lot of the homes that are shown here and it really makes those who are not from Markham jealous of what we have.

Mr O'Connor: Did you help build some of those homes?

Mr Cousens: No, no. It is beautiful territory, I tell you, and the fact that it has such a loyal good member.

I would also like to point out that this bill will give the town some control over demolition permits. All applications for demolition permits will go before town council for approval. Council may refuse any application for demolition and prohibit any work from being done to demolish or remove the building or structure, and council will also have a chance to have a higher fine for those who go against it.

I am pleased to present this bill. There are a number of demolition permits that are outstanding, so the fact that we have this before the House now and consideration can be given is very important to the people of our community.

Maybe at this point Rob Robinson could comment.

Mr Robinson: As Mr Cousens did state, this act is based on the same act that was granted to the city of Toronto in 1987 and very recently to the city of London. It makes several changes to the existing Ontario Heritage

Act, and one in particular which is of much value to the town of Markham.

Currently under the Ontario Heritage Act, if there is a designated property or a property within a heritage conservation district, which is just a boundary and all the buildings are within that district, a person can apply for a demolition permit and council can refuse that permit for a period of 180 days. In fact, they can stretch it out for another 90 days if they delay their decision a little bit. But after those 270 days have gone by, then the person can demolish the heritage building without any other recourse by the town.

Essentially this act would require anyone wishing to demolish a heritage structure to obtain a building permit for a building to go on that site before he proceeds with demolition. It does not take away someone's rights to have a structure demolished. It just forces them to have a concrete plan in place and a building permit before they can proceed with the demolition. That is the primary section of the act, or the most important section.

The fines for demolishing without a permit, the maximum has been increased to $1 million in the same fashion as the city of Toronto and the city of London. There is one other provision which would require a person, once he has obtained a building permit to replace a heritage structure, to commence construction of that building within two years. That is to prevent someone from going through the entire process, getting his building permit and then just deciding not to build.

Essentially, those are the main features of the legislation and I would be willing to respond to any questions the committee may have.

Mr Ferguson: Municipal Affairs certainly has no objections to what is being proposed. In fact, personally I certainly support the bill. I think it makes good sense. There are two individuals here from the Ministry of Culture and Communications who I understand do not want to speak to the bill but are prepared to answer any questions.

Mr Chiarelli: I have not read all the sections in detail, but the comment was made that there are a number of pending situations in the municipality. Will the passing of this bill have any retroactive effect? In other words, are there citizens or business people out there, individual property owners, who may have entered into the process and are in the process at the present time on the basis of their understanding of existing law and existing municipal regulations who will be adversely affected? I am not talking about new occurrences that would happen after the passing of this bill, but I am anxious for counsel in particular to indicate to what extent this may have a retroactive effect.

Mr Robinson: I would not call it retroactive, but it does have immediate effect. If a person out there has a demolition permit for a heritage structure but does not have a building permit and if this act was in force, say, tomorrow, that person would not be permitted to proceed with the demolition of that building. They would have to then go on and obtain a building permit. I do not call that retroactive, but obviously they would have to rearrange their plans for the demolition, if that is what you are asking.

Mr Chiarelli: Yes. I have a related question. Somewhere in the submissions a statement was made that it could take upwards of two years to obtain a building permit. Why should it not also take that long to get a demolition permit? There was a linkage made in one of the submissions. Are some of the applications for building permits pending for which demolition has already been approved, that would be affected?

Mr Robinson: I am not aware of any. There are a number of applications where the person has simply put in his request for demolition, let the 270 days run, and then he can come back to the council and say, "I want this proposal or I'm going to demolish what I've got there." But I am not aware of any of the first situation you—

Mr Chiarelli: Are the people who might be directly affected in the process at the present time, in your opinion, aware of this legislation and have chosen not to file any objections?

Mr Robinson: I assume they were. The notice of the public legislation was published in both local newspapers, as required, for four consecutive weeks, so subject to someone in the audience being here to object, I assume that they are aware of it. We did receive some letters.

The Chair: If I just may comment on that, there is one letter of objection from Mr Henderson. He was contacted and unfortunately he was unable to be here today, but he did want to make sure that his letter was brought to the attention of all the committee members.

Mr Cousens: I think the point that is being raised is a very important one and certainly it is an important one to our own local community at this point, because there are a number of permits that are in the process of running through the clock and if those five historic homes are removed, it is going to have a serious impact on just what was and known to be Thornhill. I thought for sure that Doreen Quirk, the councillor for that area, would have been here today. I know she planned to come.

Further to your question, everybody in our community who is close to the history and what the town is all about is aware that this bill is coming before the House now, because when we tabled it on 20 December, in addition to all the advisement that had been given by the town, there was also considerable further press on it.

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Mr J. Wilson: I applaud not only your excellent member of provincial Parliament but the bill itself.

I very much agree with the intent of the bill and I do not understand totally the objection that has been put to us in letter form by Mr Henderson, but maybe I will ask you to comment on it. It seems his objection boils down, after a few pages, to process and that the effect of this bill may be to take away some of the due process that every property owner should be entitled to, as he makes the point. In your opinion, how would it do that? My understanding is there is a 180-day lapse. There is still quite a lengthy process there for the property owner to be involved. Could you just comment on that?

Mr Robinson: Yes. Right now, the town could delay someone for 270 days following his application for demolition, and then obviously some discussions go on with the people, or negotiations, whatever other type of avenues the town wants to proceed with. What this act really does is, notwithstanding that that period has gone by, the person must have a building permit for a new building in his hands. I think the person who wrote, Mr Henderson, I guess, is correct—that may take another year to get a building permit. It may take three months, it may take a year. It depends whether they have to go through rezoning or site plan or other processes.

Mr J. Wilson: In other words, council cannot rule on it until it sees the complete package, which is what you intend to do with the property after demolition.

Mr Robinson: That is right. Hopefully, in the meantime, if the person legitimately wants to construct a different building on site and has all the approvals and wants to go ahead with it, his property rights are there. He can do it. But if it is a two-year process for a more complicated building, I guess, and something happens in the interim, and someone would have liked to move that house to another property, purchase it, but the house has already been demolished because the person went out and did it as soon as he could, then that opportunity is lost. It just gives the municipality the extra period to leave the building there until it is a foregone conclusion.

Mr J. Wilson: I was wondering too, the effects of this bill on small property owners. It seems to me that the process gets a little more complicated if this bill is passed. I agree with the intent, as I say, but what about the cost to somebody who owns a house, a heritage property, that may be in need of demolition? He may be able to get permission to do that, but he also has to submit extravagant plans on what is going to happen to the property afterwards.

Mr Robinson: I am just assuming that anyone who is going to demolish a heritage property—now, this is a property that has been designated or is in a heritage conservation district.

Mr J. Wilson: Yes.

Mr Robinson: I am presuming that they have plans to construct something in its place. Unless they are just going to demolish the house and leave the property vacant in order to sell a vacant lot, you are correct, there would be some extra costs there.

Mr J. Wilson: How detailed a future-use plan of the site do you require?

Mr Robinson: You need a building permit.

Mr J. Wilson: So they go through the entire process.

Mr Robinson: Yes, the building permit drawings.

Mr Chiarelli: That would be a really expensive imposition on a small land owner, to go through the whole process of detailed building plans, getting an architect or a draughtsperson to put it all together, go through the process, carry the property, pay the taxes and then say: "No, you can't demolish. Come back and apply for a new building permit." Certainly, it would be in the interest of these small property owners if there could be some preliminary process for this type of building permit application where it could be approved in principle without causing the detailed plans and specifications to go through the whole process and then say, "Well, I'm sorry, we're not going to give you the right to demolish." In the meantime, this person is out $30,000, $40,000, $50,000 in plans and engineers, architectural, etc. Is there no way that you could build into the process an approval in principle to a building permit without having to put them through that entire cost? I am not talking about developers; I am talking about Mrs X who is a widow who has been living in this house for 40 or 50 years.

Mr Robinson: The cost that I think you are speaking of is only connected with the building permit drawings themselves. To get a building permit that complies with a code and for which the town will issue a building permit—

Mr Chiarelli: Which is a very significant cost.

Mr Robinson: Yes, but to apply for a demolition permit, that costs virtually nothing. The only costly procedure is when you obtain your building permit. Obviously if you intend to build a new building you would apply for your building permit for the new house, a cost you were going to incur in any event, apply for a demolition permit, and in the normal course that may take three or four months.

Mr Chiarelli: But you are applying for two different things.

Mr Robinson: Yes.

Mr Chiarelli: If the demolition is refused based on the plans that you have provided, the cost of those plans is thrown away and you have to go back to the drawing board and start all over again.

Mr Robinson: You see, we cannot deny a building permit if it complies with the zoning and the building code. If you are allowed to construct a house on your property, you get a building permit for that property. We cannot say, "We don't like that building, go build something else." If it complies with the zoning bylaw and the building code, that person has an absolute right to that building permit and the town must issue it.

Mr Chiarelli: I apologize, Mr Chairman. I stole the floor from my colleague.

Mr J. Wilson: Thank you, Mr Chiarelli. Just to follow your point a little further, what about the effect of resale value? I am not quite sure, to be honest, how the Ontario Heritage Act works now. If you owned a house that is designated now and you are selling it, you do not have any plans yourself for the site but you are selling it to someone else who may have plans for the site. That purchaser may say: "Well, now I've got to go through all this extra expense. We're going to knock a few bucks off the selling price." There may be some effect on resale.

Mr Robinson: There may be, but it really comes down to a question of timing, the timing for this to happen. You only develop one set of building permit drawings and you apply for your demolition permit. There is no increased expenditure in redeveloping a property. It may take another six months to do it, you have to plan ahead to

apply for your demolition permit, but the town cannot say, "These plans are no good, come back with some new plans" if it complies. We always get the objection that even just a designated property that no one has any intentions of demolishing, "That is going to diminish my property value." But I am not aware of any studies or any proof. I have never seen anything to substantiate that. That is a perception out there, but I do not know that it is true.

Mr O'Connor: Just a comment and one question. I commend the council for recognizing the need for this. I think that living in a small rural community that has a significant proportion of historic and heritage buildings, it is important that we try to preserve them. In fact, one of the heritage communities in in my riding, Uxbridge, actually has a walking tour of all the heritage buildings. As a young country we really do not have an awful lot of heritage buildings, so we need to start preserving them for the future so that we can have some history to revisit on occasion.

I know that most new owners realize that they are buying or purchasing a building that has been identified in your heritage buildings inventory, but I just wondered if there is any way that people, when buying one of these buildings perhaps on some sort of speculation, realize that they are actually buying something that would fall under this jurisdiction.

Mr Robinson: A property which is designated is registered on title. In Markham we also have some heritage conservation districts. We have four. Thornhill has been for some time and I believe the one on Main Street in Markham is going to the Ontario Municipal Board.

Interjection.

Mr Robinson: Yes, are in the process. If you are located within any heritage conservation district, there are certainly signs up and everything, but that would not show up on a title search.

Ms Casella: The public is involved in the designating process of a district. A study is done and it is a great long process. There is an awful lot of public input and it is certainly something that is very well known. Somebody coming into a district five years after a district was designated would certainly know it was a district.

Mr Cousens: And the street signs have it. For instance, when you see the video, it shows historic areas and so on.

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Mr O'Connor: Thank you. I have supported it. I think it is excellent.

Ms Casella: Also, I should just point out at the moment that there is a difference between a listed building and a designated building. In Markham we have approximately 600 listed buildings, but less than 10% of those are designated, so we are not talking about a great, large number of houses. In a district, each and every building is considered protected by the Ontario Heritage Act, but that does not mean, just because it is protected, that a demolition would not be considered. There are many reasons that a demolition would sometimes even be appropriate.

Mr O'Connor: I think probably in a growing community such as Markham, this is very well advised so that you can preserve some of that heritage in light of the remarkable growth that has taken place there in recent history.

Mr Chiarelli: I have to apologize, Mr Chairman. I am taking a bit of time here, but I am in my confused mode right now. I am trying to come to grips with the linkage between the demolition and the building permit.

You had indicated that presumably there is a bylaw with permitted uses, and in the normal course somebody could apply to obtain a building permit, and that is going to continue. On the other hand, you are saying that you cannot demolish until you get the building permit. Could you make the rationale behind that linkage for me? I am missing the point.

Mr Robinson: Okay. In a normal situation where there are no heritage aspects, you know, just a residential building on a lot, you can apply for a demolition permit to the municipality and it will issue it within two or three weeks, four weeks, however long it takes it. Of course, you need a building permit to construct a new one. The building permit stage is when you come in with your detailed drawings—structural, mechanical, electrical—all your drawings, and they have to comply with the Ontario Building Code, which is very technical about how the house should be built. If it is a heritage house and you come in and you want to demolish it, you would be advised that the permit would not be granted until you had obtained a building permit for a new building on the same property.

Mr Chiarelli: What are the extraordinary criteria that would be applied to issuing a building permit on the part of the municipality in these circumstances that do not apply in the normal course?

Mr Robinson: There would not be any. We could not force you to build a new heritage home or a replica on the same property. You could build a different type of house on that property. However, I should point out that in the Thornhill conservation district they do have guidelines for the construction of new houses within that district.

Mr Chiarelli: What is the zoning or the uses that apply in the municipality where a property has been designated heritage?

Mr Robinson: Most of them have been around for so long that they are an urban residential zoning, rural or urban. Most of them are residential zoning, so the properties are not zoned a heritage designation, they are zoned single-family residential and you can build any type of two- or three-storey, single-family dwelling on that property.

Mr Chiarelli: Under what circumstances can somebody apply to demolish a building and build a new building on a heritage site, and the municipality will say, "No, you can't do it"? What are the criteria that will be used to deny demolition when somebody applies for a building permit?

Mr Robinson: I am saying we cannot deny it. We can only deny them on the basis that you do not have a building permit in your hand. Once you have had your plans approved—

Mr Chiarelli: But how does that generate the preservation of the heritage property if you cannot deny the demolition?

Mr Robinson: Because it holds up the demolition until such time as the person does have the building permit in his hands. A lot of property owners out there would like to demolish it and have it off their site or use it as a bargaining chip when they come to the municipality.

Mr Chiarelli: So it does not preserve the heritage building, it simply preserves an optional use.

Mr Robinson: No, it can preserve that building for another, say, six months or a year, and in that year something may happen. The owner may decide to sell it to another person who wants to maintain it as a heritage property. There are all kinds of old houses in Markham that you see being moved from one property to another on steel stakes. They are being moved to other properties. The town has sponsored a heritage subdivision which has about 40 lots on it and old houses are being moved to this single subdivision in the town of Markham. So there are a number of ways that they can be preserved. As I am saying, we are not taking people's property rights away.

Mr Chiarelli: So in fact I am right when I assume—

The Chair: Can I just make one suggestion? Just one more question, Mr Chiarelli, because you snuck in a couple there while my attention was turned; just in terms of keeping things moving, okay?

Mr Chiarelli: Okay. I was not sure what the limit of questions or the time was, but thank you, Mr Chairman.

The Chair: We do not normally like to limit, but with time constraints today.

Mr Chiarelli: I appreciate your comments.

I am right in assuming that this new process really does not legally give you the right to preserve the building in any way; it just changes the process.

Mr Robinson: That is right. We may be able to stretch it out a bit longer, but we cannot insist that you keep that building. If they have a building permit, they go ahead.

Mr Chiarelli: Thank you.

The Chair: Are there any objectors or interested parties here? Seeing none, any final statements? I take it members are ready to vote on this bill.

Sections 1 to 10, inclusive, agreed to.

Title agreed to.

Preamble agreed to.

Bill ordered to be reported.

WOLFE CONSORTIUM FOR ADVANCED STUDIES INC ACT, 1990.

Consideration of Bill Pr46, An Act respecting the Wolfe Consortium for Advanced Studies Inc.

The Chair: Just before you leave, we have two other items on the agenda that we need to deal with. One is Bill Pr46, which is the Wolf Consortium for Advanced Studies Inc. You will remember that that bill was brought forward. It was to be deferred until the Ministry of Colleges and Universities could get back to us on a statement. The clerk has checked with Mr MacKay, who was before the committee, and I was just wondering if you could comment to the committee on what Mr MacKay said.

Clerk of the Committee: As the Chairman stated, I did speak with Mr MacKay last week to ask what the status of that matter was in the ministry and was informed that the report of the Ontario Council on University Affairs to the minister is still under his consideration and he therefore requests that the deferment continue.

The Chair: Did we get any indication for how long they would like the deferment to continue?

Clerk of the Committee: No, there was no indication of a time frame.

Mr J. Wilson: I believe my comments in agreeing to deferral, though, were that we would report back as quickly as possible. Could we have some further explanation? It is because OAC's report is not in? Is that what I understand?

The Chair: OCUA.

Mr J. Wilson: Yes. I used to sit on the damn thing; I cannot remember what it is.

The Chair: No, the report is in to the minister. The minister is still considering it.

Mr J. Wilson: Any indication perhaps from the government representative here of when the minister might be prepared to comment? I think this group has been waiting a considerable amount of time.

The Chair: You are quite right about that. We could attempt to maybe request a commitment in writing from Mr MacKay for a definite date and hopefully have that for the next meeting here, then we would know when it would be coming forward.

Mr J. Wilson: That is agreeable.

1140

ORGANIZATION

The Chair: The other point of business is organization. As you remember, at our first meeting I introduced Avrum Fenson from the legislative research service. He is the one assigned to this committee. I neglected at that time to give Mr Fenson some time to explain his role and explain some of the committee's mandate and role concerning regulations. So we have Mr Fenson back with us today and we are going to allow him a few minutes now just to discuss those issues.

Mr Fenson: In the 1968-69 session the Regulations Act was amended to provide for a committee of the Legislature to review regulations. Regulations are laws made by an individual, often the minister or a head of an agency or a body, usually cabinet, and made under the authority of a statute which specifies who is to make regulation and precisely under which topics that person or body may make regulations. They are also known as subordinated legislation or delegated legislation or statutory instruments.

They are very important in the administration of a lot of matters in the province. The volume of regulations at any given time is of the same order and magnitude as the volume of our legislation. The last Revised Regulations of Ontario occupied about 8,500 pages. Something in the order of 700 or 800 regulations comprising 1,000 or 2,000

pages in the Ontario Gazette are made every year by different ministries.

This committee and its predecessors in the past would engage outside counsel to review the regulations for them. A few years ago, legislative research service was given the task of reviewing regulations on behalf of the committee and providing the committee with a draft report. We are catching up a backlog of unreviewed regulations now.

Regulations: Some of them are very small, just one-paragraph amendments to other regulations, and others are very big, such as OHIP's fee schedule, which is a regulation; the Ministry of Health's list of drugs. A regulation might be something simply saying that in a certain district health unit all animals must be inoculated for rabies from a certain date. Some of them have very brief effect. Some of them have very long administrative effect.

The standing orders provide nine guidelines with which the committee is to have regard when it reviews regulations. They have their origin in old rules of construction which were put together in their present form in the 1930s in England and have been adopted, with minor changes, by other legislatures. They now appear in the Legislative Assembly's standing orders.

I am sorry, I meant to pass around a copy of the guidelines. One states that regulations should not initiate new policy but simply give details which help put effect to the legislation. This committee has not had occasion to report any regulations for violation of that.

The second is, "Regulations should be in strict accord with the statute conferring of power, particularly concerning personal liberties." There have been no problems with regulations interfering with personal liberties, but the committee has reported regulations which were not in strict accord with the statute, generally in one of two ways.

One way is that it is made by the wrong authority. Sometimes a statute will say, for example, that the minister may prescribe forms for the administration of certain programs by way of regulation, and the Lieutenant Governor in Council may, for example, make regulations designating categories of persons who are eligible to apply for certain grants. Sometimes there will a regulation which includes both the forms and the grants and it might be made by one. So one aspect of the regulation was made by the wrong maker.

Another occasion in which regulation might not be in accord with this statute is if it is made on a topic not specified by the statute. A regulation might govern, for example, the marketing of wine in the Niagara region and it might be made under a statute which says the minister may make regulations specifying the manner in which the wine is to be sold. There might be a regulation which requires wine producers to maintain and to file certain records of the volumes of wine produced which is not specifically provided for. That sort of thing will be noted, and generally the ministry agrees and undertakes that the next time it is revising the statute to give itself the appropriate power.

The third guideline states the regulation "should be expressed in precise and unambiguous language." We have not been in the practice of putting in draft reports to give to the committee typos which do not create genuine confusion, but sometimes there is a serious confusion as to whether a 1.5% late fee on funds to be given to a pension fund under a statute is to be paid monthly or whether it is 1.5% per year calculated each month. So there have been some problems with serious financial administrative consequences resulting from ambiguous language.

The fourth guideline states, "Regulations should not have retrospective effect unless clearly authorized by statute." Generally, in the whole field of construction of law, analysis of law, there is a suspicion of legislation or regulations which act retrospectively, which sort of change the rules backwards in time, so that people find that they were doing something legal or did not have an obligation on a certain date; a year later they find that they were wrong.

It is generally recognized that a Legislature has the power in law to do that, but this guideline reflects a suspicion of this in regulations and requires that if a regulation is made with retrospective effect, it may be done so only if the statute in clear words says that it may be done. A few statutes do that; in particular, statutes having to do with the collection of tax, because a budget will determine the new rate of tax and the statute is not amended until some months later, so the new taxing provision will be made in the form of regulation made with the authority to give it retrospective effect.

We have had occasion to give to the committee quite a large number of regulations which seem to violate this rule against unauthorized retrospectivity. Sometimes it is just the result of a regulation being filed with the registrar of regulations too late; sometimes it genuinely purports to go back a year without having the authority to do so. So that has been a large category.

The remaining categories are ones under which we have found few, if any, regulations that violate. Regulations should not impose a fine, imprisonment or penalty. They should not shift the onus of proof of innocence to a person accused of an offence. They should not impose any kind of tax and they should not establish a judicial tribunal or administrative tribunal. In other words, regulations are not supposed to usurp the authority of courts. They are not supposed to interfere with personal liberties and they are not supposed to usurp the right of the Legislature. It is a form of law which has the standing of law but has to be made in such a way that it does not violate the power of the Legislature and other bodies to which enormous powers are given.

This committee is charged with the task of checking the regulations. The procedure for making a regulation is that the ministry will draft it, sometimes with the assistance of legislative counsel. It will go to the cabinet committee on regulations and then it will go, with proof that it appears to have been made by the right authority, to the registrar of regulations, who is a senior legislative counsel. The registrar then causes it to be filed and it is effective from the date it is filed unless the regulation itself specifies another date. It then has to be published in the Ontario Gazette within 30 days.

It is after the regulation is published that the committee looks at it. The committee is not given the opportunity to stop the regulation in its tracks. Also, the committee is not

given the power to disallow the regulation. It is not even invited by the standing orders to propose that the Legislature disallow regulations. In some jurisdictions there is such a disallowance power, but there is not one in Ontario.

Another thing which the committee is not invited to do by the standing orders is to examine the policy behind the regulation or the statute which enables a certain body to make the regulation. The committee is simply to make sure that the regulation, as published, is made within the terms of these guidelines.

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As I said, other jurisdictions do have more extensive procedures for dealing with regulations, sometimes before they are made. In Australia, for example, in the federal Parliament and in some of the states, there is an obligation that any regulation which affects an identifiable body or organization or group of persons must be preceded by public notice and an invitation to all parties concerned to give their deposition. If the regulation-making body fails to do this, the Legislature can disallow it on those grounds alone. In Ottawa, in the federal Parliament, and in some of the western provinces and Quebec, there is provision for disallowance on a motion in the House, sometimes originating from a proposal by a committee, though in fact that very rarely happens.

Apart from reviewing the regulations, this committee has had occasion to engage in other activities involving regulations. Sometimes it would arise out of a research officer such as myself coming to the committee for instructions on a certain point. I came to the committee last year to ask whether the provision against retrospectivity included regulations which did not say they had effect before the date on which they were made but had reference to events that took place before the regulation was made, such as retrospective adjusting of fees to be paid by residents in nursing homes or amounts to be paid by the ministry with reference to residential care; also salary adjustments. Usually there was not authority in the statute for regulations which referred to events in the past, and ministries to which I and my predecessors wrote querying certain regulations denied that it was a violation of retrospectivity.

I brought the question to the committee, which decided that regulations like that should not be questioned under that head, so now I present the committee, in draft reports, only with regulations which actually state that they mean to take effect on a day earlier than the date on which they are made. It is sometimes the result of late filing; it is sometimes the result of just a mistake on the part of the body administering.

The committee also took a general look, a broad look, at the whole regulation-making procedure and issued a report to the Legislature in 1988 in which it proposed a number of changes, including adding a disallowance power for regulations which violated the guidelines and also beefing up these notice procedures which appear in a few statutes—but only in a very few—which require the body making the regulation to consult with the public before making the regulation. It was quite an extensive report and the response from the Attorney General was only cautiously positive, and in fact no action has been taken on the recommendations made there.

The committee also put to one of my colleagues the question of why it is, when a bill is passing through the Legislature, the Legislature does not have the opportunity to see the regulations which are referred to in the bill. For example, the police services bill refers to detailed regulations which will govern pay equity schemes and the circumstances under which police officers may withdraw guns, and yet the regulations specifying these things were not available. The information given us was that it is impractical. They are simply not ready at the time and it is simply not done anywhere. But that is the sort of concern which sometimes is raised by the committee.

The whole activity of dealing with regulations is one which interests certain organizations. There is a Commonwealth committee on delegated legislation which has actually had conferences, one in Australia in 1980, which was attended by the then Chairman of this committee, and there was one in Canada in 1983 and in England in 1989. In Australia in particular, there is a good deal of interest in controlling and supervising the making of delegated legislation, because its importance is often underestimated. It is not noticed much by the public, it is not subject to public debates, or at least debates which are publicly attended, and yet it governs in great detail much of the business in the country, in the province.

Mr J. Wilson: Mr Chairman, if I may interrupt, I have to go and I think if I go, then there would not be any representation from our caucus. I very much appreciate the presentation, in all sincerity, but perhaps we could come to a conclusion.

Mr Fenson: If there are any questions I will be glad to answer them.

Mr J. Wilson: I am glad we got to this point. I was just sort of wondering generally, what is the volume of regulations, on average, that we might consider here, having seen none to date?

Mr Fenson: Each year there are something in the order of 800 regulations made under about 150 statutes. Perhaps half the regulations are made under four ministries, which include Health, Municipal Affairs. I can give you the top—

Mr J. Wilson: No, that is okay; generally.

Mr Fenson: It is in the order of about 800. Many of them are just tiny amendments to existing regulations, but some of them are very large and new regulations.

Mr J. Wilson: But we only examine those if there is an objection after publication in the Gazette, right?

Mr Fenson: What my practice has been in serving the committee is to read—I or colleagues of mine in the legislative research service—all the regulations and make inquiries of ministries where we think there is a problem, a written inquiry to the legal services branch of the relevant ministry, and look at its response and decide whether or not to put it in the draft report. Typically, half the problems are explained away in some way, and about half, something in

the order of 25 or 30, remain reported in the draft report, which then is the basis for the committee's report.

Mr O'Connor: You mentioned the Gazette too.

Mr Fenson: Yes.

Mr O'Connor: Do regulations go through the Gazette then?

Mr Fenson: Yes. After they are filed with the registrar of regulations, they are published in the Gazette. They are required to be published within 30 days of being filed, but the filing date is their effective date.

The Chair: Any other questions at this time for Mr Fenson? Seeing none, thank you very much for bringing us up to date on that issue, certainly bringing me up to par.

Seeing no other business, I think we can adjourn. Just a note: The clerk informs us that we do not have any business for next week so we will not have to meet then, but quite possibly we will be back on in two weeks.

The committee adjourned at 1158.

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Le mercredi 1 mai 1991

Standing committee on regulations and private bills

Comité permanent des règlements et des projets de loi d'intérêt privé

Chair: Ron Hansen
Clerk: Todd Decker

Président : Ron Hansen
Greffier : Todd Decker

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 1 May 1991

The committee met at 1009 in committee room 1.

ELECTION OF CHAIR

Clerk of the Committee: Honourable members, it is my duty to inform you that I have received a letter from Mr Sutherland in which he has resigned as Chair of the committee. I therefore must call upon you to elect a new Chair. Are there any nominations for the position?

Mr Fletcher: I nominate Mr Hansen.

Clerk of the Committee: Mr Fletcher has nominated Mr Hansen. Are there any further nominations? If none, I will declare nominations closed and Mr Hansen elected Chair of the committee.

The Chair: I would like to inform the committee that Mr Henderson will be a little late coming, so we will put Bill Pr3 down the list. Also, there are some amendments to Bill Pr37 which will be coming later, so we will go on to Bill Pr24.

TOWN OF OAKVILLE ACT, 1991

Consideration of Bill Pr24, An Act respecting the Town of Oakville.

The Chair: The sponsor is Mr Carr, MPP.

Mr Carr: Congratulations, Mr Chair.

The Chair: Is Ms Howell here also?

Mr Carr: Yes, she is. I would like to introduce Beatrice Howell. She is the assistant town solicitor for Oakville. As you may know, the purpose of Bill Pr24, An Act respecting the Town of Oakville, is to enable the town of Oakville to prohibit or regulate the placing or dumping of fill in the town.

The Chair: Mr Carr, do you have any comments to make on this bill? Or Ms Howell?

Mr Carr: No, I do not.

The Chair: Does the parliamentary assistant have any objections to the bill?

Ms Gray: The parliamentary assistant is not with us this morning, but the Ministry of Municipal Affairs has circulated the bill to all members of cabinet and has received no objections to the bill as it stands now.

Mr Ruprecht: The deputy might quite correctly assume that whatever he says may lead to arguments, and that is why he is not saying much.

The Chair: Are the members ready for a vote?

Mr J. Wilson: Mr Chairman, it seems to me we did one exactly like this for the town of Markham not too long ago. I do not think we should be having these bills come one after another, town after town. I would ask the ministry officials if there is any contemplation of dealing with this within the ministry itself.

Ms Gray: The ministry has been looking at the issue. We are also looking at the experience with the municipalities with these bills as they have evolved over a number of years, as perhaps pilots projects for general legislation. There has not been much experience from the municipalities that we have contacted yet in the actual application of the legislation, but the subject is being studied by a group of ministries—Municipal Affairs, the Ministry of the Environment and the Ministry of Natural Resources—with the hope of evolving general policy on this issue.

Mr J. Wilson: Just out of curiosity, do you know how many municipalities now have enacted these bills?

Ms Gray: I do not have an accurate number, but I believe it is about five or six. Richmond Hill was the bill we dealt with in the fall. Other municipalities include Scarborough, North York, Toronto, and there is an application from the city of Toronto to add to its legislation at the present time. I think there may be two or three others.

Sections 1 to 7, inclusive, agreed to.

Bill ordered to be reported.

CITY OF NORTH YORK ACT, 1991

Consideration of Bill Pr54, An Act respecting the City of North York.

The Chair: Mr Perruzza and Ms Light, would you introduce yourselves for Hansard, please?

Mr Perruzza: I am Anthony Perruzza, MPP for Downsview. Let me take this opportunity to congratulate the Chairman on his recent election as Chair of this committee.

Ms Light: My name is Sonia Light and I am a solicitor with the city of North York.

Mr Greco: I am Joe Greco. I am a civil technologist with the city of North York.

The Chair: Does the sponsor have any comments on the bill?

Mr Perruzza: As you can see, it is not a controversial bill; it is basically housekeeping legislation that would enable the city of North York to require people who own multiple residential premises and businesses that abut public highways to cut grass in the municipal boulevards and the public roadways. I do not see it as a controversial piece of legislation, but the city solicitor may want to speak to some of the more technical aspects of the bill.

Ms Light: Basically what Mr Perruzza says is correct. We are asking for authority to require owners of multi-residential buildings and owners and occupants of business premises to cut the weeds to a certain length on adjacent roadway boulevards. We already have authority to require owners of private property to cut the grass and weeds on their own private property, and this is essentially some additional authority that the city would be asking for to

require only owners and occupants of business premises and owners of multiresidential premises to cut the grass and weeds on adjacent city property, which is the roadways abutting their property.

I believe the bill you have before you is the bill we originally proposed, and we have some amendments we are proposing today to that bill. The purpose of the amendments is to use more standard language that was used in a previous bill the city of North York received approval for. To use the same kind of definition for the adjacent roadway boulevards, we have changed that wording to say public highways, except for the part that is used for motor vehicle traffic.

We have just changed the definition. In the bill before you, you have the wording "adjacent roadway boulevards," and we have changed that and said instead "public highways abutting their lands, except the portions used for motor vehicle traffic." That is the more standard way of referring to the grassy portions of roadway that are abutting people's property. That is one change.

We have also deleted the words "occupant, of multiple residential premises," because we do not feel it would be feasible to require the occupant of a multiresidential premises to cut the grass and weeds on the adjacent roadway property. I hope that is clear.

Mr Ruprecht: I seem to recall that another municipality asked us to pass essentially the same law for the city of North York. Does the city at present have authority to force home owners to cut their grass, and if they do not, then add it to the municipal tax rolls?

Ms Light: Yes. We have authority to require owners of private property to cut their own grass on their private property to a certain length.

Mr Ruprecht: To the same 20 centimetres?

Ms Light: Yes, to the same 20 centimetres. But what we are asking for now is to require only owners of multiresidential buildings and business premises to cut the grass on adjacent roadway pieces; you know, the part that is not their own property but is municipal property adjacent to the roadway. We want authority to require owners or occupants of business premises and owners of multiresidential premises to cut the grass on the adjacent portion, the roadway portion of their property.

I believe it arose out of a report of the public works commissioner that stated they were having a problem where the property of some of the owners has not been kept up properly. In a previous bill, we did get authority to require the same owners to remove garbage and debris from the properties. We should maybe at the same time have received authority to require them to cut the grass, but we did not. So in a previous bill we do have authority to require these same owners to remove the garbage and debris from the adjacent roadways, and now we are looking for the additional authority to require them to keep the grass in a certain condition.

1020

Mr Ruprecht: I am not sure right now which other municipality in Metropolitan Toronto came before us. Do you know which one or two requested the same thing?

Ms Light: I have no idea. I understand that it may have been Etobicoke that asked for something like this.

Mr Ruprecht: The reason I am asking this question is that it would be just a question of pro forma passing of this particular piece of legislation if someone had the identical piece or bill passed. I do not recall right now who it was or whether there were any differences. Is it possible that we hear a comment?

Ms Gray: I believe there has not been a bill of this exact nature covering grass cutting on the abutting roadway. There have been a number of bills that have asked owners and occupants of business premises to pick up garbage and debris on the adjacent roadways. There have also been a number of bills, following North York's application, to require private owners to cut grass on their own property. The most recent one that was dealt with in that category was Brampton, and that was last year. But this, I gather, is a new application in regard to grass and weed cutting on abutting roadways. I have not found in my research any previous example.

Mr Ruprecht: The reason why this is very useful is because of what Jim Wilson mentioned earlier, that we might get some others coming before us and we could save a lot of time by providing some other mechanism to do this. But I would certainly support it.

Mr J. Wilson: I just have a couple of minor points. "Public highways"—does that cover all abutting roadways?

Ms Light: What we want are the public highways except for the motor vehicle portion.

Mr J. Wilson: Is "public highways" the legal term for side streets?

Ms Light: "Public highways" is the legal term for the 66-foot—it includes, let's say, the reserve on either side of a road that we could use for road widening, and that includes the grassy portions. At some point, if we wanted to widen the road, we could use that. The whole thing is the public highway, and we want obviously just to require the owners to maintain the public highways that are grassed.

Mr J. Wilson: What about medians and so on?

Ms Light: That is not intended to be included in here. I think that would be a separate term.

Mr J. Wilson: The way it is worded, I assume it means you cut it when the grass or weeds exceed 20 centimetres and you remove the clippings at all times. In this day and age, it is considered more environmentally sound to have the clippings remain.

Ms Light: We did not want to just say that they have to cut it when it reaches 20 centimetres, but at that point they also have to remove the clippings.

Mr J. Wilson: The government may come along some day and say you cannot have bags of 20-centimetre weeds along the curbside, and you are requiring these people to get rid of these things.

Ms Light: I think it says to remove the cuttings whenever the growth of grass or weeds exceeds 20 centimetres. I do not think we would charge somebody for leaving cuttings on his grass.

Mr J. Wilson: I guess the difficulty is that the subsection is all one sentence, so it makes it a little difficult. But I will leave enforcement up to the municipality.

Mr Perruzza: I remember when North York council dealt with this. I was on council at the time. In the industrial parks, and this was the concern in the industrial neighbourhoods, factory owners were just simply leaving the boulevard portions that abutted their properties; they were letting that grass grow wildly. I think the intent is to just simply have them trim it and keep it neat and clean looking.

If you want to make amendments that would not empower the city to force these property owners to remove the clippings, I think you would be well advised to do that. I do not know exactly how you would do it. I think what the city is concerned with is neat and clean and tidy and forcing the owners to cut their grass. Whatever mechanism you want to employ that would enable that course of action to take place, I think the city would support that and I would support that as well.

Ms Light: The language of this bill has been redrafted to follow the same format as a previous bill that we got, which is Pr31. In that we also said we have authority to require owners of private property to cut the grass and to remove the cuttings. We just followed the same language so that they are all the same.

Mr Sola: On this last point that you just raised, do private property owners have to do the same sort of maintenance of abutting lands if they are unoccupied?

Ms Light: If they are unoccupied?

Mr Sola: Yes. If they have the same sort of abutting lands to highways, if it is a single-family dwelling, do they have to do that?

Ms Light: No. Right now we have a bylaw in effect that requires the private property owners to cut their own grass on their property. With this legislation we are not requiring owners of residential homes to cut grass on the city roadway. Many of them do anyway, but we are only now requiring owners of business premises and owners or occupants of business premises and owners of multiresidential buildings to do this type of work.

Mr Sola: If the intention is to keep the place neat and clean, why would you not make it general for both commercial and residential? You may be coming back here within six months and saying, "Now the commercial areas are neat and clean but the residential areas are not, so we need another bylaw."

Ms Light: I think the problem was with the business premises, and the industrial, as Mr Perruzza mentioned.

Mr Perruzza: The city now has a program where the works department will go and cut grass in the public roadways, I believe, once every four or five weeks. It is a cyclical program and they go around and they trim that grass. I think most home owners, by and large, cut the boulevard portion in front of their properties anyway. I do not think you need firm rules to require them to do that. They usually comply on their own, and the city currently has a program to cut that.

It is the industrial areas, it is the industrial parks. It would cost the city just simply too much money to go into those neighbourhoods and cut that grass. If the factory owners or the people who own the industrial units knew that the city would come every four or five weeks to cut that grass, they just simply would not go out there and do it any more; they would leave it alone. They do not live there, they just go and they work.

The Chair: I agree with Mr Sola there. His point was to cover all these particular areas. Maybe the government would respond on any comments that are made.

Ms Light: Could I say one more thing in response to what Mr Sola said? Under our Bill Pr31—and I do not know that you have that in front of you; that was the one that was passed before—we have authority to require only the owners and occupants of business premises and the owners of multiresidential premises to remove garbage from these. We are not requiring private property owners to remove the garbage from those boulevards. It is also the same thing; we are just requiring the owners of business premises and multiresidential premises to remove the garbage. So we are being consistent. We have already made them responsible for removing garbage from the boulevards and now we are just adding to that. We are not requiring right now that private property owners remove the garbage from the boulevards. In a way, there is some precedent from what we got before.

1030

Mr Ferguson: I think it is important that we all recognize this is North York's bill and we ought not to be expanding it unless it is so requested. If there is a problem, we can come back. I am sure they will be before us again at some point in time with some other matter and if it is a problem, we will just have to deal with it.

Mr O'Connor: I agree with Mr Ferguson there. I was just wondering, if it is in order then, if perhaps I could move the amendment.

The Chair: Yes, I think that is in order.

Mr O'Connor moves that subsection 2(1) of the bill be struck out and that the following be substituted:

"(1) The council of the corporation may pass bylaws requiring the owners of multiple residential premises and the owners or occupants of business premises in the municipality to cut the grass and weeds on public highways abutting their lands, except the portion used for motor vehicle traffic, and to remove the cuttings whenever the growth of grass or weeds exceeds 20 centimetres in height or such greater height as the bylaw may provide."

Motion agreed to.

Section 1 agreed to.

Section 2, as amended, agreed to.

Sections 3 and 4 agreed to.

Preamble agreed to.

Bill ordered to be reported.

Mr Perruzza: Mr Chairman, thank you very much for your committee's support this morning, and thank you for moving this up on the agenda as well.

EASTERN PENTECOSTAL
BIBLE COLLEGE ACT, 1991

Consideration of Bill Pr37, An Act respecting Eastern Pentecostal Bible College.

The Chair: Mr Sutherland, will you introduce yourself and your two witnesses, please.

Mr Sutherland: Let me say, first of all, it is a pleasure to be on the other side of the chair here. Congratulations to the new Chair.

I am here to sponsor Bill Pr37, An Act respecting Eastern Pentecostal Bible College. With me is William Lech, the solicitor from the firm Lech, Lightbody and O'Brien in Peterborough, and also the Reverend David Boyd, dean of men at Eastern Pentecostal Bible College.

There are a couple of amendments to the bill which I want to propose.

The Chair: Mr Sutherland moves that section 1 of the bill be amended by striking out "chairman" wherever it occurs and substituting in each case "chair."

Mr Sutherland moves that section 1 of the bill be amended by striking out "sections 5 and 6" in the first line and substituting "sections 4, 5 and 6" and by inserting the following section before section 5 of the act:

"4(1) The affairs of the college shall be managed by the board of governors of the college.

"(2) The board of governors shall be composed of 16 governors who shall hold office for a term of two years and until their successors take office and the board of governors shall be constituted as follows:

"1. The president and the executive director of bible colleges of the Pentecostal Assemblies of Canada and the district superintendent of the western Ontario district of the Pentecostal Assemblies of Canada, the district superintendent of the eastern Ontario and Quebec district of the Pentecostal Assemblies of Canada, the district superintendent of the maritime district of the Pentecostal Assemblies of Canada, and the general superintendent of the Pentecostal Assemblies of Newfoundland.

"2. Three members of the executive of the western Ontario district of the Pentecostal Assemblies of Canada, appointed by the executive.

"3. Three members of the executive of the eastern Ontario and Quebec district of the Pentecostal Assemblies of Canada, appointed by the executive.

"4. One member of the executive of the maritime district of the Pentecostal Assemblies of Canada, appointed by the executive.

"5. One member of the executive of the Pentecostal Assemblies of Newfoundland, appointed by the executive.

"6. Two laymen, appointed by the board of governors from a slate of nominees submitted by the board of administration.

"(3) No person shall be appointed as a member of the board of governors unless the person is a Canadian citizen.

"(4) No governor described in paragraph 2, 3, 4, 5 or 6 of subsection (1) shall serve on the board of governors for more than eight years consecutively, but on the expiration of one year after having served on the board of governors for eight consecutive years, the person is again eligible to be a member of the board of governors.

"(5) A majority of the board of governors constitutes a quorum for the transaction of business.

"(6) Where a vacancy occurs in the board of governors, the vacancy shall be filled by the same authority that appointed the person whose membership is vacant and the person so appointed shall hold office for the remainder of the unexpired term of the person whose membership is vacant, but service on the board of governors for an unexpired term shall not be included in the calculation of the eight consecutive years referred to in subsection (4).

"(7) The board of governors may by bylaw increase the number of governors to a maximum of 24 and each additional governor shall be appointed by an executive named in paragraph 2, 3, 4 or 5 of subsection (2) or by the board of governors subject to the following:

"1. The board of governors shall not be entitled to appoint more than four additional governors.

"2. Additional governors appointed by the board of governors shall be laymen chosen from a slate of nominees submitted by the board of administration.

"3. If an executive is to appoint an additional governor, the bylaw shall name which executive shall make the appointment."

Mr Sutherland: I have no further comment. I will turn it over to Mr Lech and Mr Boyd to comment on the bill.

Mr Lech: I gather that the amendments are being distributed to you. The first one is self-explanatory, just substituting the word "chair" for "chairman." The other amendments you probably have in front of you. They have been discussed with legislative counsel and apparently are agreeable.

The bill itself, as originally amended and as subsequently amended this morning, hopefully with your approval, is really dealing with changes in the board of governors and the board of administration of the Eastern Pentecostal Bible College. There are no major changes from the original bill, which was passed by this House in 1983. If you have any questions, I am sure that we will endeavour to answer them. I do not think I need to say anything further. There are minor cosmetic changes to the composition of the board of governors and the board of administration of the bible college.

Mr Sutherland: Sorry, I forgot to bring up just one point. Due to the fact that the amendments, I believe, just came in in the last day or two, the committee will have to provide unanimous consent to deal with the amendments, so on behalf of the people introducing the bill, I would ask that you provide such consent.

Mr Ferguson: Mr Chair, I would be happy to move that.

Mrs MacKinnon: Do you need it seconded?

Mr J. Wilson: The amendment you brought forward, when it is outlining who shall compose the board of governors, how is this different from the present situation?

Mr Lech: I will initially answer that by indicating that in the original bill there were 16 governors. There are still

16 governors, but there are certain additional people, who are shown in paragraph 4(2)1 of the amendment, who have been taken out of the previous group of people who comprised the governors, and they are not bound by the necessity of eight-year terms. They are, in essence, ex officio, although the words "ex officio" have been taken out of there.

Mr J. Wilson: With this amendment and the list contained therein, are you dropping anyone from the current board structure or are you just adding?

Mr Lech: The numbers are the same. Are you talking about individuals as such?

Mr J. Wilson: In makeup.

Mr Boyd: The makeup would remain the same, except for the fact that the chief executive officers of our supporting constituencies would remain on the board and not be subject to the eight years and off, so the same number of people, and at this time the same people, would be there on the board of governors.

Mr J. Wilson: I think it is obvious then that your present board has approved these amendments.

Mr Lech: Yes.

Mr Boyd: That is correct.

Mr Ruprecht: I just want you to know, speaking on my own behalf and maybe for some of our colleagues, that we wish you a very fruitful year and thank you very much for coming. I just wanted to let you know that you carry with you some of our hopes and aspirations, so when you go back, present the greetings from the Legislature hopefully to your assembly.

Mr Lech: We appreciate your comments very much.

The Chair: Shall the first amendment carry?

Motion agreed to.

The Chair: Shall the second amendment carry?

Mr J. Wilson: Just one moment, Mr Chair. Can we take 30 seconds to finish reading the amendment? Having served on a board of governors before, I am rather interested in this.

The Chair: Okay.

1040

Mr O'Connor: Just in keeping with the first amendment changing the word "chairman" to "chair," I would like to move a friendly amendment to this amendment. Whether it is possible or not, I am not sure, but in paragraph 4(2)6, where it says "two laymen," we should perhaps have "laypersons" there.

Mr Lech: I do not think we will have any objection to that.

Mr O'Connor: The same thing in paragraph 4(7)2, "laypersons."

Mr Lech: We have no objections.

Mr J. Wilson: Just a curiosity here in subsection 4(6) of the bill: It seems to me that the way it is worded is that if someone serves, say, one year and then resigns and has to be replaced, the replacement can serve out the term, which is seven years left, plus be reappointed, because under the amendment it would be considered a new term, for eight years. You could have a total of 15 years consecutive or more the way this is set out, as far as I can read it. Are you sure you intended that? If so, why the limitation of eight years in the first place?

Mr Boyd: I think I could answer that question if you look at subsection 4(2). It is the "hold office for a term of two years." The unexpired term relates to that term of two years.

Mr J. Wilson: Okay, thanks. Sorry to show my stupidity.

Motion agreed to.

Section 1, as amended, agreed to.

Sections 2 and 3 agreed to.

Preamble agreed to.

Bill, as amended, ordered to be reported.

Mr Boyd: Thank you very much for your warm welcome. I appreciate your help.

LAURAMAR HOLDINGS LIMITED ACT, 1991

Consideration of Bill Pr3, An Act to revive Lauramar Holdings Limited.

The Chair: Mr Henderson and witnesses please, or witness, and for Hansard, would you kindly introduce yourselves?

Mr Laker: My name is Benjamin Laker. I am appearing on behalf of Joan Sguigna.

Mr Henderson: I am Jim Henderson, MPP for Etobicoke-Humber.

The Chair: Mr Henderson, do you have any comments on the bill?

Mr Henderson: I would hope that this is a relatively straightforward matter. The company, Lauramar Holdings, I understand ceased to exist a little over a decade ago, December 1980, for relatively routine kinds of reasons. There is litigation pending in the Supreme Court of Ontario, I have been told, that makes it advisable that the company be revived. I think Mr Laker can perhaps fill in some of the details about this a little more directly than I could.

Mr Laker: In his lifetime, James V. Sguigna was the sole shareholder of this company. He died on 26 September 1975. The company had filed its returns up to that time. When he died, apparently it went into default.

This company has an interest in another company. It holds 10% of the shares in a company called Gomilia Properties Ltd, which is now in litigation, and there are funds to be distributed. Lauramar would be entitled to 10% of those funds, and they are substantial. Until the company is resurrected we cannot go forward with the litigation, nor can we expect to get the funds. There is that urgency to it.

I may say that when Mr Sguigna died, he died intestate. Letters of administration were taken out. Mrs Sguigna is entitled to the shares, and those are the facts.

Mr Ruprecht: If Mr Henderson supports this as our colleague, then I really see not much reason to make any objections.

Mr J. Wilson: That is agreed with the other opposition party as well.

Mr Henderson: This day is off to good start, Mr Chairman. I hope it carries on like that.

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

Mr Henderson: Thank you very much, Mr Chairman and members of the committee.

Mr Laker: I am obliged to you, sir.

The Chair: We have got one more. The clerk has requested to make a report on Bill Pr46, An Act respecting the Wolfe Consortium for Advanced Studies Inc.

Clerk of the Committee: Members of the committee will recall that at our last meeting I was requested to attempt to get in writing from the Ministry of Colleges and Universities a commitment as to a date by which it may be prepared to see the committee proceed on Bill Pr46, the Wolfe Consortium bill. I have now received a letter from the director of the university relations branch and the letter basically states that the ministry cannot at this point commit to a date and would like to see the matter held in abeyance indefinitely.

Mr Ferguson: Maybe we could have a word with the minister. I have received a number of calls from the individual who wants the bill passed. My thought is, why encourage somebody if he is not going anywhere? I think we should deal with the matter. Maybe we can talk to the minister about it and say: "Look, don't hold this guy off for ever. Either say yes or no. That is not particularly fair."

Mr J. Wilson: Mr Chairman, it might give the parliamentary assistant more clout if a motion were put forward in that regard from the committee, that we do not want to see it held in abeyance indefinitely. This would be the second time we have unofficially—well, officially and at one other time unofficially—asked the ministry to come forward with its recommendations.

Mr Ferguson: Well, if that will make you happy. I do not think it is going to make the minister sit up and take notice and immediately jump on the matter, but hey, I am agreeable this morning. If you want a motion, I would like to move that we ask the minister to respond forthwith to the application for the bill.

The Chair: Motion carried? Carried.

The committee adjourned at 1052.

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Wednesday 12 June 1991

Journal des débats (Hansard)

Le mercredi 12 juin 1991

Standing committee on regulations and private bills

Comité permanent des règlements et des projets de loi d'intérêt privé

Chair: Ron Hansen
Clerk: Todd Decker

Président : Ron Hansen
Greffier : Todd Decker

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 12 June 1991

The committee met at 1017 in committee room 1.

ORGANIZATION

The Chair: I call the meeting to order. Identify yourself for Hansard.

Mr Fenson: I am Avrum Fenson of the legislative research service. I provide the committee with legal research on the subject of its review of regulations. I have come to seek the committee's instructions as to when to deal with Ontario regulation 144/91, made under the Police Services Act, 1990, which establishes new oaths for persons becoming police officers or members of police services boards. Metropolitan Toronto and the city of Toronto have asked that the committee review the regulation to test its constitutionality and they have also expressed an intent of going to court to find the regulation unconstitutional.

Mr J. Wilson: My question is to Mr Fenson. When do you expect the city of Toronto to be going to court? I guess more important, were they serious in their comments about going to court?

Mr Fenson: I just could not comment on that. I do not know. I have not spoken to them.

Mr J. Wilson: The question before the committee, as I understand it, is when, either sooner or later, do we receive the opinion from legislative research on the constitutionality of the removal of reference to the Queen from the police oath?

Certainly my opinion and the opinion of my Ontario PC caucus would be that we get that opinion forthwith. It is a serious issue to our constituents. As I said previously, we have had a number of petitions that we are continuing to present on almost a daily basis in the House. I have received dozens of letters from my own riding and from ridings around the province on this issue, and people are very curious as to whether the Premier's comments that swearing an oath of allegiance to Canada and the Constitution has the same force and effect and is in fact the same as swearing allegiance to Her Majesty the Queen.

I would be very interested in legislative research's opinion on the constitutionality of that. As I have said to the government members, you can either vote with us on this one now or you are going to have the opinion come forward and you are going to drag this out in the normal course of events perhaps towards the end of this year when legislative research would normally report back to the committee. I suggest that we hear that opinion now, as soon as possible. Perhaps you will find that it upholds Mr Rae's comments on this.

That is all I have to say at the moment.

The Chair: Mr Fenson, just for Hansard, would you give the two options that we have so we know what we are all discussing here?

Mr Fenson: The options are just to have me review the regulation in the ordinary course of events; that is, to review the regulation with the other 1991 regulations, which I would probably do around new year, in time to catch the last of the year's regulations, or to instruct me exceptionally to look at this regulation right away and to report back to the committee so that the committee can decide what opinion it wants to express to the Legislative Assembly about this regulation as soon as possible.

Mr O'Connor: I want to put forward a motion that would put this off until next week so we do not use up the time of our witnesses, whom we have called together for the normal course of what we have on our agenda. Then perhaps we can take that up from that point in time. I do not think we should be using up the time of these witnesses who have come forward today, if we could put that forward in the form of a motion that we defer this to next week.

Mr J. Wilson: We would agree to that.

The Chair: You agree to that? Okay, fine.

BIG SISTERS OF SUDBURY ACT, 1991

Consideration of Bill Pr11, An Act to revive The Big Sisters Organization of The Regional Municipality of Sudbury.

The Chair: Would the sponsor identify herself and the witness, please?

Ms S. Murdock: Good morning. I am Sharon Murdock, the MPP for Sudbury. I would like at this time to advise that Karen Maki, the executive director is not here. Instead we have the president of Big Sisters of Sudbury, Josie Calabrese. I would ask that the bill be approved. Do you want an explanation?

The Chair: Yes. Does the sponsor have any comments?

Ms S. Murdock: Just that it was an oversight and an inadvertence in not renewing the corporation and continuing the corporation. We are asking for the revival now.

The Chair: Okay, fine. Can the applicant speak to the bill, please?

Ms Calabrese: We were instructed about a year ago that we had lost our incorporation status and we have been working over the last year with the people down here in Toronto to try to revive that. We have been acting almost on a daily basis to try to do that.

The Chair: Mr Fletcher, you are speaking on behalf of the government today?

Mr Fletcher: Yes. We have no problems with this bill as far as meeting all the requirements is concerned.

The Chair: Can I call for the question from committee members?

Mr Sola: I suggest we accept the renewal. As a former Sudburian, I would find it hard to resist renewing the Big Sisters for the region of Sudbury. I guess since all of us have some connection with the north, we all feel in the same boat.

Mr Ruprecht: I second that.

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

Fee-waiving motion agreed to.

SOUTH OTTAWA SERVICES FOUNDATION, INC ACT, 1991

Consideration of Bill Pr13, An Act respecting South Ottawa Services Foundation, Inc.

The Chair: Would the sponsor identify himself and the witness, please?

Mr Grandmaître: My name is Bernard Grandmaître, MPP for Ottawa East, and I would like you to meet Laird Rasmussen, solicitor for the South Ottawa Services Foundation.

Very briefly, the South Ottawa Services Foundation has been in operation for a good number of years. It was incorporated back in 1982 as a non-profit organization. It operates a 50-room hostel and provides accommodation for parents and young children treated at the Ottawa General Hospital and the Children's Hospital of Eastern Ontario.

The city of Ottawa, the Ottawa separate school board, the Ottawa public school board and the regional municipality of Ottawa-Carleton have all agreed to this exemption.

If you do have any specific questions, we are open.

Mr Sola: Was this just an oversight as well?

Mr Grandmaître: Not an oversight, Mr Sola. This bill was introduced two years ago and it died on the order paper. I am not going to blame the last election. That is the only time I will not blame the last election.

Mr Sola: I would move we call the question.

Mr J. Wilson: If there are no objections.

Mr Grandmaître: No objections, Mr Wilson.

Sections 1 to 6, inclusive, agreed to.

Schedule agreed to.

Preamble agreed to.

Bill ordered to be reported.

Fee-waiving motion agree to.

1030

MAY COURT CLUB OF OAKVILLE ACT, 1991

Consideration of Bill Pr69, An Act to revive The May Court Club of Oakville.

The Chair: Would the sponsor identify himself and the witnesses, please?

Mr Carr: My name is Gary Carr, MPP for Oakville South, and I have with me Patricia Williams, who is legal counsel, as well as Tricia Kennedy.

This bill is to revive the May Court Club, which is a charitable organization that some of you may be aware of because it does have chapters in Barrie, Brockville, Ottawa and Kitchener. It is a charitable organization that is involved in raising funds for community projects. This bill is just to revive the club and get it active again.

The Chair: Does the applicant have any comments?

Ms Williams: I would just like to say this is a charity that has been going on for some time. It was dissolved in 1979 for failure to file the corporation notices. We do not know where they went, because the solicitor for record had become a judge four years previously. It was just discovered in January 1991 that the corporation was dissolved, so this is an application to have it revived.

Mr J. Wilson: I would like to thank Mr Carr and the other participants for coming forward and to assure Mr Carr that because of his credibility alone this committee would be pleased to revive the May Court Club of Oakville.

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

Fee-waiving motion agreed to.

LONDON FOUNDATION ACT, 1991

Consideration of Bill Pr71, An Act respecting The London Foundation.

The Chair: I call Bill Pr71, An Act respecting the London Foundation.

Mr Peterson: Unfortunately the sponsor is not here.

Mr J. Wilson: She got tied up. I would be pleased to sponsor it on behalf of Mrs Cunningham in her absence.

The Chair: Would the sponsor and the witness please identify themselves?

Mr J. Wilson: I am pleased, in the inadvertent absence of Mrs Cunningham, the member for London South, to sponsor this bill before us, Pr71. The witness today is Gordon Peterson of the law firm of Harrison, Elwood in London, Ontario.

The Chair: Does the applicant have any comments on this bill?

Mr Peterson: There are just a few technical amendments to the bill. The act was originally incorporated in 1954 and we are just bringing it up to date to bring it in line with the Corporations Act as well as to expand the board of directors.

Mr J. Wilson: There has been no controversy surrounding this bill and no objection. Perhaps, though, the witness would like to explain, first of all, why the board of directors is being expanded and why new flexibility in terms of appointment is being introduced.

Mr Peterson: Just to give you a little bit of history on what happened, The original London Foundation Act was incorporated in 1954. For about 25 years after that nothing really took place. The London Foundation was in place but there was no real activity. It was resurrected in 1979 and when they started raising funds and they obviously grew. They recently had quite a few large donations made to them, such that they now need an expanded board to deal with all the interested parties in London.

They have gone from a board of seven to 10 and they want to provide that there will be a flexible board in terms

of the duration of each term from a minimum of one year to a maximum of five years. Currently each director is required to serve three years, so this gives them a little bit more flexibility but at the same time prevents one member from being on the board for an extended period of time.

The Chair: Any comments from the government?

Mr Fletcher: I was wondering if you are going to be filing your information notice under the Corporations Information Act.

Mr Peterson: Yes, I believe it is already filed under that act.

Mr Fletcher: The government has no real concerns with this one.

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

Fee-waiving motion agreed to.

WOLFE CONSORTIUM FOR ADVANCED STUDIES INC ACT, 1990

Resuming consideration of Bill Pr46, An Act respecting the Wolfe Consortium for Advanced Studies Inc.

The Chair: Would the sponsor come forward with the witness, please.

Dr Anderson: I understand Mr Runciman had another conflict today.

Mr J. Wilson: I would be happy, in the inadvertent absence of Mr Runciman, to also sponsor Bill Pr46. I do not know whether that is necessary, but I would be happy to do so because this is a bill that has been before us before.

Clerk of the Committee: This bill is back on the agenda. Members will recall that it was first dealt with, I believe, on 20 December, at which time the Ministry of Colleges and Universities asked that the committee defer further consideration of it pending review by the Minister of Colleges and Universities of a report from the Council of Ontario Universities, I believe it was.

Subsequent to that, the committee has received correspondence from the minister, the Honourable Richard Allen, which members have in front of them, stating that he does not support passage of this bill. Dr Anderson has asked that, in the face of that final statement by the minister, the bill be brought before the committee today and dealt with.

The Chair: Does the applicant have any comments?

Dr Anderson: I have prepared a sheet in case it is difficult for me to be heard. May I go through what I have to say to you as I have prepared it?

The Chair: Yes.

Dr Anderson: First of all, I want to thank you very much indeed, in case I do not have an opportunity later to say so, for the courtesy of this committee and for the help of Mr Decker and his assistant, Mrs Marshall. I greatly appreciate the concern that the committee has represented to the ministry on this.

It is six months to the day since we discussed it before and I request formally this morning that you finally put this to a vote. I plead to each member, of course, that you recommend passage of the bill. In saying that, I challenge you not to defer to the ministry which has, according to my view of matters, a deep conflict of interest here.

It has a conflict of interest because it is the operator of the huge public system and therefore does not represent our interests in any way. It is a competitive opponent, if that is not too strong a word, of Wolfe. I say that, admitting that we are comparing an elephant with a mouse. I think it is quite improper for the ministry to take a position in this matter as an interested party. I do not mean that you should not seek their opinion, of course, but you should recognize that their opinion is that of an operating institution which is in direct opposition to private institutions such as I hope Wolfe will be.

1040

Now there are precedents, not many, but there are precedents for your committee taking a position independent of that of interested ministries. For example, you almost did this last 5 December when the chairman of the day, Mr Sutherland, had to break a tie vote on an amendment to Bill Pr26, An Act respecting the Town of Richmond Hill. That was a near thing.

On that occasion, Mr Sorbara, representing Richmond Hill, said to you: "You are elected to make a decision, not to simply ask the parliamentary assistant what the ministry thinks of this, that or the other thing. That is called bureaucratic government." I cite Mr Sorbara's expert commentary to encourage you to think independently, if you are able to do that, in this case.

Because this is such a contentious matter, I have to say once again—but I will be much briefer than I was last time—what we think is the utility. I cannot understand for the life of me why anyone would oppose any university anywhere in the world, because universities have been known for 900 years out of the European tradition, and even out of the Asiatic tradition of the Muslim Empire, to be useful entities. I have never heard of a university that was thought to be inimical to the public interest.

In the five years of my promotion of Wolfe, even from my opponents who were ideologically opposed to private institutions in education, I have never heard a single word of criticism about our motives or the details of what we propose to do except, of course, to break the monopoly that the Ministry of Colleges and Universities has in operating the public system.

My claim to you is that there is no risk whatsoever to the government in Bill Pr46. If we fail, we go bankrupt. Those who have been opposed can say, "I told you so," but there is no overt risk to the government in that eventuality. I claim on the other side that there is potential good to arrive for Ontario from our being able to apply our brains in our own way to help solve Ontario's education problems. I would be glad to hear your questions on that point, but I feel very strongly that this is the case.

The most important point to me is an ethical point. There are the legalities and there is the usefulness—

The Chair: Excuse me. We have questions if you could answer. There is a question from the floor for you.

Mr Ruprecht: I am in support of this bill, but could you tell this committee whether it is true that the majority of privately funded Ivy League institutions in the United States, the 10 big ones, the 10 best ones, are indeed private or public? Do you know that?

Dr Anderson: Some of them, I am sure, are public; some of them, I am sure, are private, such as the University of Chicago, Stanford and the Massachusetts Institute of Technology.

Mr Ruprecht: Harvard? Private or public?

Dr Anderson: The ones I mentioned are private. There are thousands of private institutions in the United States. Of course, you are speaking about the 10 best. The University of Michigan, for example, is public and one of the best institutions in the world. One cannot say in advance that private or public in the United States counts for quality. There are excellent public institutions. I cite the University of Michigan as a prize example, but then there are all the equally good, and perhaps better, private institutions. You mentioned Harvard, which I suppose is, along with Oxford and Cambridge, one of the three premier institutions in the world.

Mr Ruprecht: You have told the ministry, without doubt, that you would be subject to any of its regulations.

Dr Anderson: Of course. It is interesting to note, though, that on the one hand there are no private universities in Ontario currently and so there are no bodies to be subject to the regulations. The governing legislation does not lay down any conditions upon private universities, or public universities for that matter. The public universities are subject to the operating regulations of the ministry, of course, financial and legal and so on. We, as Wolfe Consortium for Advanced Studies, are subject to the Business Corporations Act, so of course it goes with emphasis that we would be subject to all the regulations pertaining to a business corporation to begin with, and to an educational institution to end with.

Mr Ruprecht: So academically you have no problem in fitting in.

Dr Anderson: No, sir. I do not see any problem at all.

May I add, in supplement to Mr Ruprecht's question, that those of you who are not familiar with it must remember that most of the universities, the older ones, Queen's and so on, were private. Queen's, for example, was private for a century, and I have never heard any criticism whatsoever of the operation of Queen's as a private university for 100 years. It has only been public for the past 20 or 25 years. You do not just have to take my word for it, Mr Ruprecht. You can look at the history and see in Ontario the same situation to which you referred in the United States. On the other hand, the University of Toronto has been public since 1853 or so, and it has done a good job too.

Mr O'Connor: I want to thank you for coming here today, Dr Anderson. One thing that concerns me is the whole issue around accountability. If we have someone here from the ministry, perhaps he could talk a little bit about it. I know in some of the more reputable private and publicly funded universities there has been a lot of discussion around accountability and I just wonder if the ministry could—

The Chair: Okay, Mr O'Connor. I will call on the two ministry advisers here, if they would identify themselves, please.

Mr MacKay: My name is Jamie MacKay. I am the director of the university relations branch in the ministry.

Ms Rowe: I am Frances Rowe. I am legal counsel for the ministry but I will defer to Jamie on this one.

Mr MacKay: Certainly the matter of accountability for universities is something we are very much concerned with at the moment. In fact, another committee of the Legislature is dealing with that subject at this moment. Our concerns, of course, focus around the accountability for the expenditure of public funds.

I might remind the committee that really universities are private in that they are privately incorporated by the Legislature and boards of governors are given full responsibilities for running universities. They are, however, in receipt of public funds, which the Legislature votes on their behalf, so we have a balance between the autonomy of a privately established university and the need to account for the taxpayers' dollars that go in there. This is something that is difficult to achieve, the appropriate balance, but the government is very concerned with that, and the Provincial Auditor is very concerned as well.

1050

Mr O'Connor: I am on the committee that is actually taking a look at that, so that is why my interest is keen. It is the standing committee on public accounts. One thing that we have been looking at has been the aspect of value-for-money audits. Perhaps there might even be a change in the Audit Act in that respect.

When we take a look at standards that the ministry sets up for the institutions that are receiving ministry funding, is there any way there will be a direct relationship to a private institution that does not have the money accountability? Is there any way the ministry can then make sure that academic standards are not compromised in any way?

Mr MacKay: Of course, that is exactly one of the difficulties the ministry is wrestling with as it tries to develop and determine what this government's policy should be with respect to private universities. We certainly would see that the government should have a role in ensuring that degree problems meet Ontario standards, whether privately or publicly operated. We even have some minimal standards that we require for religious institutions that want to grant religious degrees. We want to make sure that they are at least financially stable, that they have the support of the religious community they wish to serve and that kind of thing.

Mr O'Connor: Then in reference to the standards set that the ministry expects for the publicly funded institutions, is there any way of ensuring that the same degree and quality of education is behind that degree that is being

granted? Can the ministry feel totally satisfied that any degree granted from either institution is actually representative of the quality of education?

Mr MacKay: Because we do not have any universities operating outside the publicly funded sector at this moment, I cannot really answer that. But as I mentioned before, I think what we would see as important is that if we are going to have private universities, we have some kind of process or regime that would ensure quality. If there were going to be private universities, they would have to jump through some kind of academic assessment hoop so that the public would be assured there were some quality standards being adhered to, whether or not those institutions were in receipt of public funds.

It is that kind of question, what would those hoops be if one were going to do it, that the ministry is thinking about right now. That is one of the reasons why, unfortunately, we have not dealt with the advice we have received on this question as quickly as we had originally anticipated and why the matter is still under deliberation. It is a very interesting and complex question that we are examining right now.

The Chair: Are there any more questions from the committee members?

Dr Anderson: Mr Chairman, may I speak?

The Chair: Mr Wilson? I saw your hand go up one time. I am sorry, Dr Anderson. Mr Wilson did have his hand up.

Dr Anderson: No problem.

Mr J. Wilson: I am glad the representative of the ministry, Mr MacKay, did give some explanation of why this is taking so long. I do not think I am wrong to say that it has been going on for years and the government has not been able to come up with policy. It seems a little unfair to Dr Anderson and Wolfe Consortium. Perhaps if we have any more such private bills come before this committee, or proposals for those, we should inform them that in the case of people wanting degree-granting powers in a private university the committee is not able to deal with those because the government has not yet brought forward a policy. That may stop the inconvenience to some people.

Of course we do have, as Dr Anderson has pointed out, the University of Toronto as a publicly funded public university but sections thereof—for instance, the college I went to, the University of St Michael's College, and Victoria College—are private universities. They receive block funding from the U of T. Have you given any consideration to affiliation with an existing university or a post-secondary institution?

Dr Anderson: No, we have not, for two reasons. One is that the process of affiliation has not worked in the 25 years that it has been in existence as a potential solution under the Robarts policy. So it is practically non-existent, although it is theoretically a possibility.

The second reason is more fundamental, though. Our proposals would not fit in with any institutions in Ontario; I mean our philosophy and our methods of operating. For example, Wolfe may be unique in its plan that it be owned by people who put money into it as investors. I do not think even Mr Ruprecht's private universities in the United States are operated in that way. That is a unique feature which is absolutely essential to me, because it is one of the ideological planks on which I have proposed the university and without that I simply would not have any interest in proceeding. So on both routes, the practical and the ideological, it is not working.

For example, the Canadian Memorial Chiropractic College wants to affiliate with a public university, not with a private one. They have tried very hard over the past 30 or 40 years and they have never succeeded to this day. So it simply is not a vehicle for a variety of reasons I could explain to you but which might take too long here.

Mr J. Wilson: The question of public funding seems to be one of the stumbling-blocks with the ministry, and I can understand that in accountability, but I do not recall in your original submission to us here at the committee that you were really asking for any public money.

Dr Anderson: On the contrary, Mr Wilson, it is another equally strong plank that we would not accept any public money directly. Of course, we all get public money indirectly through police services and so on, but grants and subventions we would not accept. As an ideological matter again, we do not think it is proper for us. I have no criticism of the public system on those grounds. That is for others to decide. But in our case, part of our private belief is that we should pay for things ourselves when we can, and if we cannot, we ought not to be in business.

Mr J. Wilson: To get over the ministry's concern on that, it is a commendable ideology. Is it written down anywhere, in the sense that—

Dr Anderson: It is not in the act, though I offered that it be put into the act.

This point is raised with me frequently, and may I in responding to you refer to Mr O'Connor's questions on accountability. There is the financial accountability. We have complete financial accountability through the Business Corporations Act in the same way that any corporation does, so our accountability is built in through the protections offered to investors and the public and so on through the requirements of the Business Corporations Act. Unless there is some weakness in there that I have not heard about, I cannot see that there is any concern for you about business accountability.

On the side of academic accountability, for those of you, unlike Mr Wilson, who have not had experience with the universities, I should tell you most plainly that the kind of accountability Mr O'Connor is referring to as sort of legal accountability does not exist in the public institutions at the undergraduate level. It does at the graduate level. The University of Toronto here has no accountability of the kind you are talking about in undergraduate education except for the indirect effects through the professions in medicine, dentistry, engineering and so on. But in the arts, there is no accountability at all, except that which is the most important accountability, the integrity of the professoriate.

I find it very puzzling indeed when I am questioned on this point. I am a product of the system that Mr MacKay presides over. I was a graduate of the public institution

here. If we were starting from scratch, if there were no universities in Ontario and I came forward to you to talk about this, then you could talk about academic accountability. But to me, as a professor for 30 years, it is ridiculous to talk about accountability, because all universities everywhere in the world are subject to the accountability of their students, their colleagues, the geniuses who preside over things academic, people who are far brighter than most of us. We all have to meet the standards of the marketplace. If our students do not do well, we hear about it. So accountability in the public institutions to me is not an issue at all, in comparison with accountability in other directions.

Accountability is wonderful. If it is to apply to us, though, I have said from the very beginning of this process two years ago it has got to apply to the public institutions too, not just to us. I should tell you too, on behalf of the existing private and university level institutions, their accountability academically is far greater than at the University of Toronto, for example. I am speaking about the professional groups, like the Canadian Memorial Chiropractic College.

If I had longer to speak to you, I think I could resolve your concerns on the financial and the academic accountability.

1100

The Chair: Dr Anderson, we have quite a few questions. We have got at least three more members, if we can get through them.

Mr Fletcher: Just a couple of things. First, how long have you been trying to get your school to this position where it can grant degrees? Mr Wilson said it has been going on for a lot of years.

Mr J. Wilson: This has been going on for a while too for Wolfe Consortium, but my comments were more towards MCU and the fact the government—it is not just your government; previous governments—has been trying to come up with a policy on private universities.

Mr Fletcher: Okay. My question is, how long have you been trying?

Dr Anderson: I have forgotten the exact date, it is so long ago. About 25 years ago I propounded the idea. First of all, I was turned down then.

Mr Fletcher: No, how long have you come here?

Dr Anderson: Currently five years.

Mr Fletcher: So the previous government did not act on this either. They did not do anything.

Dr Anderson: No. Until a year ago January I was waiting on this process, which is still going on after six years this coming September. It was September 1985 when Mr Sorbara, then minister, asked for a recommendation. Naturally, we waited and waited and waited, but I gave up on that process a year ago January and propounded the bill at that time. That is when I started with Ms Hopkins over there to bring the matter to a head, which I hope we can do today in our case.

Mr Sola: I just want to ask one question. In your summary, sir, you make reference to the Oratory of Saint Philip Neri, and I am wondering what connection there is with Wolfe. Is Wolfe a religious-degree-granting institution or is it a general-degree-granting institution?

Dr Anderson: This comes under the ethical heading, which I think is so important. I believe that it is a natural right of professors to teach according to their own views and that the government, in our case through the Ministry of Colleges and Universities, should have no moral right, no ethical right, no legal right to interfere in that process, except through accountability of an academic and financial sort, which I take as a given.

In the case of Ontario, the private institutions have been destroyed for reasons that never have been explained to me. I have never been able to find from the ministry any source of record showing what the debate was that led to the destruction of the private universities in Ontario. However, because of the religious connotation of some institutions, the ministry has allowed private religious institutions to give, as Mr MacKay said, limited degrees of a religious sort. The Oratory came under that provision, along with, as he said last time, maybe a dozen such institutions.

What is sauce for the goose is sauce for the gander. This country is just rife with claims for equal treatment, fair treatment, the Charter of Rights, minorities being treated in an equitable way. So it is my claim to you, and it always has been my claim, that the right for private universities, which the Oratory is in a narrow way—it is a seminary, I believe—to do their work should be a right that we, as a non-sectarian institution, should also have. It is as simple as that, an inalienable right.

I cannot understand at all any argument that says that as long as we are not spending public moneys—if we were asking for public moneys, the game would be entirely different, of course. But since we propose to go our own way financially, then I think we ought to have the same right you granted the Oratory on 5 December, to grant our degrees in the ordinary way that every professor is allowed to do throughout the world.

It is a question of inalienable natural rights, in my view, and this is a very deep and serious point, I know, and it is one that I have had no response to from the ministry previously, but to me it is the major point, my freedom as a professor to teach and talk to students in the way that the student and I find mutually agreeable.

Mr Sola: I can agree with the point that you should have the right to teach, but I cannot see any connection between a religious community granting degrees for those religious functions as a result of finishing that course and drawing a parallel with a general-degree-granting institution which will be competing with general degrees granted by publicly funded universities, because if they are non-denominational, they cannot give out religious degrees. Each religious institution has to set up, I think, its own degree-granting institution, to carry on the religious practices of whatever religion we are talking about. That is why I found it a little bit difficult to make the connection between you, who are non-sectarian, comparing yourself to a sectarian college.

Dr Anderson: If I can say further to that, your point may be well taken, but the fact is that the public university across the road gives degrees in religion, of course, just as the Oratory does, through St Michael's and through the school of theology, Knox College, Wycliffe, Trinity, Emmanuel College. There is not a distinction here between private and public. The public institutions, and others no doubt too, do the same as the Oratory. All I am asking for is the same right that they have.

One hears a great deal about religious discrimination, which is improper, these days, but there is irreligious discrimination too. It is the other side of the coin. If you are going to not discriminate against a person for hiring or teaching or anything else on the basis of his religion, you cannot discriminate on the basis of his doing the same sort of thing without a religious basis. In other words, atheists in our country have the same rights as Christians or Muslims.

Mr J. Wilson: Dr Anderson, I am going to support you on this bill for a number of reasons, but first and foremost is because we absolutely do believe in academic freedom. The question of accountability of curriculum, it seems to me, is very strange in the instance of a post-secondary educational institution like a university, for instance, where we know very well there really is not any accountability of curriculum, in the sense that, you are right, the professors and the faculty are responsible to the students and the board of governors. When I was on the board of governors at U of T, we never really discussed curriculum. That was up to the academic freedom of the professors teaching. They taught whatever they thought was necessary to attain a degree in, for example, political science. It is not like a local school board where you go through the curriculum each year and sometimes twice a year.

Second, and it is important and I wish all the government members were here, the big question, I think, before the committee is that you are here to seek a remedy because you have not yet received fairness or justice. You have been caught up in the Ontario Council on University Affairs and the MCU process for years. Our committee, to remind all members, has the authority to pass your bill and to recommend it to the Legislature, and it seems to me that some six years or more is long enough. If the government, and successive governments, cannot come up with a policy, why should you and your group suffer as a result? That is exactly why you are before this committee. I think this government talks a lot about fairness, and this is a perfect case for it to put its money where its mouth is.

1110

Mr Sola: Let's put it to a vote.

Mr J. Wilson: We will vote. You have not received what I think you are entitled to. I know it brings up the larger question of private universities and public funding and that, but I think the more important question is fairness to you and to Wolfe Consortium, so I would call for the vote, Mr Chairman.

The Chair: We have one more question from Mr O'Connor. Oh, you called for the vote.

Mr J. Wilson: I'll waive it.

Mr O'Connor: Actually, I was going to move a motion here. This is not something to be taken lightly. I know it is something you have been advocating through the previous governments for a period of five years now and in fact trying to get this motion pushed forward at this point in time without allowing the ministry an adequate time to make sure that it has considered all options. I think that would be perhaps pushing things just a little bit quickly, seeing that we have been in government just since 1 October, and in practical terms the period of time has been much shorter than that for the ministries actually to act and to come up with a policy on this.

What I would move today is that we defer this until October, until we can then get a direction from the minister's office. I would like to move that motion. Of course, it has been called, so—

The Chair: Is there a debate on the motion?

Mr J. Wilson: I just have a real quick comment. I would agree with the motion, but—

The Chair: You called for a vote.

Mr J. Wilson: I withdrew. I would agree with the motion, with the trailer though of, is it possible that MCU and the government will have its policy or are we just going to go through this again? We asked for it last time and all we got back was, "No, the continuing policy is we do not have a policy."

Mr O'Connor: That is right.

Mr J. Wilson: So are we expected in October to have before this committee the government's policy so that we can do this within a context?

Mr O'Connor: Of course, I cannot speak for the minister on that and say, "Yes, we will." We have to keep in mind that this has gone through two previous governments and no policy was set, so I think it is acceptable that we wait until October, and hopefully we will get a direction and a policy statement from the government. But to drive it through, put it to the question, is not going to do justice to Dr Anderson or to the bill itself, so perhaps we could defer it until October.

Mr J. Wilson: I think we should just ask Dr Anderson if that is appropriate. I mean, if you are just going to drag him out for a few more months, I would think that would be fair.

The Chair: Dr Anderson had called me and this was the one thing he wanted to know, whether we are doing something today. We will let him reply to this. He wanted to appear, he wanted to know yes or no. At this particular time it will be up to Dr Anderson in a sense. Not up to him, but let's hear his reply on this.

Dr Anderson: Two points: One, it is none of the business of the Ministry of Colleges and Universities in this case legally in connection with this bill. Mr Ruprecht last December used the phrase, "The ministry passed this bill." Mr MacKay then replied quite properly that it is not in the hands of the ministry.

As it happens, it is a curious legislative fact that private universities, or public universities for that matter, are

creatures directly of the Legislature and therefore directly of this committee. The Ministry of Colleges and Universities has nothing legally to do with it at all, any more than Ontario Hydro has, for example.

It is not within the purview of the ministry to take the position that the Ministry of Municipal Affairs might take in connection with some bill before it. It is none of the ministry's business, and I did not know this when I was here on 12 December. No one had told me, and I found out myself and verified with Legislative Counsel that this was the fact. I am dealing as the petitioner in this case directly through you with the Legislature; nothing to do with the ministry.

The second thing is that the ministry has had the report since last 14 November, according to Mr MacKay. I think that is quite long enough to make up their minds about anything, let alone this.

So I press you, sir, to a vote today. I would sooner be dead today than suspended animation. I may not live another six months. My time is short. If it were 25 years ago and I were here before you then, I would agree with Mr O'Connor that October was not a bad time perhaps. But after six years, six years is enough.

Mr O'Connor: It appears that Dr Anderson then does not agree with the motion. I would not want to put an unfair motion before him. If he feels that we are wasting his time, perhaps I should withdraw the motion and the question should be called.

The Chair: Okay, we are going to wind up calling the question.

Sections 1 through 3, inclusive, negatived.

Preamble negatived.

Bill negatived.

The Chair: It having failed on the vote, I will report to the House that the bill is not reported.

Mr Ruprecht: Strong objections.

The Chair: Thank you, Dr Anderson.

Dr Anderson: Mr Chairman, in your regulations there is room for remission of the fee. It does not say anything about a failed bill. Is it improper to ask you to consider remission of the fee in this case for educational institutions?

The Chair: What was that? The fee?

Mr Ruprecht: Mr Chairman, you have the discretion of the fee. I would move to withdraw the fee, whatever fee it is.

The Chair: You put a motion on it?

Mr Ruprecht: Yes, I just made the motion that if there is a fee, then I would move to withdraw that fee.

Fee-waiving motion agreed to.

ORGANIZATION

The Chair: There are two more items on the agenda. Members have in front of them copies of correspondence from the city of Toronto which requests that its Bill Pr35 and Bill Pr36 be withdrawn. Shall I report to the House that these bills are not reported, they have been withdrawn by the applicant?

Agreed to.

The Chair: The last item is outstanding invoices from the last Parliament. I will have the clerk report on this.

Clerk of the Committee: Members of the committee will recall that at several meetings past I raised with the committee complaints that had been received from three applicants for legislation in the last Parliament. In the middle of their application procedure, the printing contracts that the Legislative Assembly had were changed. This resulted in roughly a 50% increase in the cost of printing their bills which they had not anticipated. When they got their final invoices, they were concerned at the cost. They have asked that the committee consider some sort of redress, because they had not expected that.

The committee asked me to get more information about the cost of printing the bills and the printing contracts, and I have determined that the change in printing contracts resulted, as I said, in roughly a 50% increase in the cost of printing. My proposal is that a fair resolution to this problem, if the committee agrees, is to take their final invoices, reduce them by approximately a third, which would give them a net amount roughly equivalent to what their printing costs would have been if the contracts had not been changed. If the committee agrees, I would propose that to these three applicants to see if they are satisfied with that.

Agreed to.

The committee adjourned at 1120.

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Wednesday 19 June 1991

Journal des débats (Hansard)

Le mercredi 19 juin 1991

Standing committee on regulations and private bills

Comité permanent des règlements et des projets de loi d'intérêt privé

Chair: Ron Hansen
Clerk: Todd Decker

Président : Ron Hansen
Greffier : Todd Decker

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 19 June 1991

The committee met at 1007 in committee room 1.

MULTIMOBILE CORPORATION LIMITED ACT, 1991

Consideration of Bill Pr65, An Act to revive Multimobile Corporation Limited.

The Chair: I call the meeting of the standing committee on regulations and private bills to order. We are changing the order a little bit. We are first going to take Bill Pr65, An Act to revive Multimobile Corporation Limited. Would they please come forward. Would the sponsor please identify himself, along with the witnesses, for Hansard.

Mr Offer: My name is Steven Offer. I am sponsoring this particular bill. With me is Leonard Braithwaite, who is the solicitor for Multimobile Corporation Ltd. I understand this is a matter of revival of a corporation. I will just introduce Mr Braithwaite to carry on.

Mr Braithwaite: This is just a small corporation with 22 employees. They make special power-lift cranes that go on the back of large trucks for construction, etc. Apparently the whole matter of the charter being revoked has been because of inadvertence. The solicitor for the company was a Mr Ash. He tells me that back in 1972, which is some time ago, when the company's charter was revoked, his office was being moved, the partnership was being split up and there was one thing and another. Through inadvertence, the filings that could have been made at that time were not made.

He tells me that two different large, very prosperous firms had the matter between the years 1979 and 1985 and that because of elections and one thing and another, the matter never was resolved. He asked me in 1985—I have been working on this since 1985—to try to get this charter revived. There is nothing particular here. The company has been operating all this time. There are no tax advantages or anything else. This is just to put the company back in good standing in the corporate world and to preserve the means of employment of its employees. Basically, that is the situation.

The Chair: Fine. Are there any questions from the government? Okay. I call the question for the committee members. Is the committee ready for the question?

Mr Ruprecht: Mr Offer supports this and I really see no reason to question Mr Braithwaite.

Mr Braithwaite: Thank you, Mr Ruprecht. You always were a gentleman.

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

Mr Braithwaite: Thank you.

Mr Ferguson: Another satisfied customer.

CITY OF OTTAWA ACT, 1991

Consideration of Bill Pr31, An Act respecting the City of Ottawa.

The Chair: I call Bill Pr31, An Act respecting the city of Ottawa. Would the sponsor and witness identify themselves for Hansard, please.

Mr Chiarelli: I am Bob Chiarelli, the member for Ottawa West, and I am very pleased to sponsor actually two associated bills. You will see two bills and they will probably be discussed somewhat together in the discussions that might ensue.

Bill Pr31 and Bill Pr63 are two acts respecting the city of Ottawa. Just by way of introduction I will say that these two bills deal with the issue of smoking and the requested legislation is to enable the city of Ottawa to pass bylaws concerning smoking which are stricter than the umbrella legislation which is in place across the province at the present time.

I am going to introduce the assistant city solicitor, Edythe Dronshek, who will answer any questions you might have and perhaps give an explanation of the two bills, and David Saint, who is with management at the city of Ottawa. Ms Dronshek can introduce him formally.

Ms Dronshek: I have with me David Saint, who is with the licensing and enforcement branch of the city of Ottawa, which will be tasked with the administration of these two bylaws if the legislation is granted to us.

Bill Pr31 is an application to allow the city of Ottawa to pass bylaws licensing, regulating and governing owners and operators of stores, shops and places where tobacco products are sold by retail, including vending machines. The bylaw will prohibit the placement of vending machines dispensing tobacco products in areas that are not in full view and under the direct supervision of the licensee or an employee of the licensee at all times.

The proposed legislation provides for right of entry for inspectors and for authority to remove vending machines from unauthorized locations and store them in a suitable place at the expense of the owner or operator of the place they are taken from. The seized vending machines and their contents become the property of the corporation after 60 days unless the lien is removed at that time.

Ottawa is pursuing this application after an extensive public participation process which has identified these needs. Ottawa is desirous of controlling the vending machines dispensing the tobacco products. These machines are considered to be the single most important focus for regulation, given that unattended, unsupervised vending machines permit virtually unrestricted access to tobacco products by minors.

The Minors' Protection Act prohibits persons from supplying tobacco to any person under the age of 18.

These controls are designed to work in combination with the Minors' Protection Act. The control of vending machines dispensing tobacco products is an integral component of a comprehensive strategy to make it difficult for minors to obtain access to tobacco products.

The bylaw would also require posting copies of the act in prominent locations and in processing licence renewal hearings upon convictions under the Minors' Protection Act.

Mr Sutherland: I am just curious about two things. Under the current tobacco act, would not the owners of the vending machines already be responsible for who uses the vending machines?

Ms Dronshek: They are not there and the machine is not supervised, so in fact they are not responsible. The Municipal Act allows the municipality to license, regulate and govern keepers of stores or shops where tobacco products are sold. A tobacco vending machine is not a store or shop. The city has lost several prosecutions in this area and has been unable to regulate the tobacco vending machines.

Mr Sutherland: How enforceable do you think this bylaw is? Does someone in the public have to complain or is it just your inspectors out there?

Ms Dronshek: We have a twofold inspection process. One is a regular inspection dealing with licensed premises, and the other deal with complaints from the public. It could be addressed in both areas. The public is quite aware of the problem, and in fact has been complaining for quite some time.

Mr Sutherland: If I may, I have one more question. In your public consultations, what type of input did you get from the vendors? Do they feel they will be able to accommodate this?

Ms Dronshek: The major persons answering these types of things were store and shop owners and their only concern was with the licensing and the fee. In fact, we have licensed stores or shops at this point and are just waiting for the companion legislation to deal with the rest of it.

Mr J. Wilson: I was just wondering how this works with the Minors' Protection Act. I missed your last sentence.

Ms Dronshek: If a licensing inspector receives a complaint that a person is supplying tobacco to a minor, he will investigate it and report it to the police force, which will then complement the investigation. The police will lay the charge under the Minors' Protection Act. If a conviction is obtained, the licensee will be notified that the city is going to review his licence and he will have a hearing to determine whether or not his licence should be suspended or revoked for the offence.

Mr J. Wilson: And you say most retailers are in agreement with this?

Ms Dronshek: They were not objecting to the extension to the vending machine process; they were just concerned over the licence fee. In fact, the city has enacted a bylaw under the existing Municipal Act. I believe the licence fee is $70. We have had no bad reactions to this process.

Mr J. Wilson: Do other jurisdictions have a similar bylaw in effect?

Ms Dronshek: Other jurisdictions are attempting to do it. Some of them appear to be regulating the machine itself, but they do not seem to be appearing in the courts to actually enforce it. Our problem was we attempted to enforce it and were unable to.

Mr J. Wilson: Just one final question on the appeals hearing: I gather that is what it is in the bill when you refer to "hearing." Who would be the designated official or committee of council?

Ms Dronshek: The city of Ottawa has special legislation obtained in the 1970s setting up a licence committee to deal with these hearings. It is composed of councillors.

Mr J. Wilson: Those are all the questions I have.

The Chair: Are the members ready to vote?

Mr O'Connor: Could we just tie the two together perhaps?

The Chair: Okay; fine.

Mr Chiarelli: We have just discussed the one bill at this point, Bill Pr31. Bill Pr63 really has not been discussed. We can discuss the other one and then vote on each of them individually later, or we can vote on this one and then deal with the other one separately.

The Chair: We can discuss Bill Pr63. We will do them together.

Vote deferred.

1020

CITY OF OTTAWA ACT, 1991

Consideration of Bill Pr63, An Act respecting the City of Ottawa.

Ms Dronshek: This application is to allow the corporation of the city of Ottawa to pass bylaws prohibiting smoking in the workplace. The bylaw would require every employer in the city of Ottawa to adopt and implement a non-smoking policy that prohibits smoking in the employer's workplace. It would provide that a smoke-free environment will be the norm with the exception that an employer may voluntarily designate a smoking area if the area is equipped with a separate ventilation system vented to the outdoors and is used for no purpose other than smoking.

City council has been supportive of regulations controlling smoking in public places and is pursuing this application after an extensive public participation process since 1987. It has been many years in the works.

The city recognized the fact that the province has general legislation, the Smoking in the Workplace Act, and held its application in abeyance for a time while the provincial act was assessed as to its impact. The provincial act does provide a minimum standard in restricting smoking in the workplace, but it does not require smoking and non-smoking areas to be separately ventilated and it provides an exception for areas used primarily by the public.

The act does provide that where a municipal bylaw is more restrictive than a comparable provision in the act, the bylaw shall apply and the provision that is the most restrictive of smoking shall prevail. Thus the act specifically provides that it does not prevent a municipality from enacting bylaws respecting smoking in the workplace where it has the

appropriate enabling legislation. Ottawa is requesting the authority to pass bylaws which are more restrictive of smoking.

It has been suggested by the Attorney General's office that subsection 4(3) of the bill be revised with respect to the execution of the warrant. The city is in agreement to this revision.

The application is based on two principles, that every employer shall ensure his or her workplace is free from tobacco smoke by prohibiting smoking in the workplace and that employers may designate locations in the enclosed workplace as smoking areas only where the location has a separate ventilation system vented to the outdoors and has no other function.

This proposed legislation covers a broader spectrum of workplaces than the existing provincial legislation.

Mr J. Wilson: When we are in a recession and our retail sector is hurting so badly, do you not feel this is more regulation by bureaucracy for retailers? Did you hold public hearings on both these acts?

Ms Dronshek: We went through many hearings on these. On smoking in the workplace we had one of the most extensive public participation processes the city has undertaken. It started it in 1987 and ended up implementing its own in-house smoking-in-the-workplace policy. It went through public participation whereby the public wanted us to adopt the city of Toronto regulations which were in place in 1986 and we proceeded then to draft the legislation and the bylaw to implement such.

We went back to council in August 1988 and council approved that the application proceed. We were just about to file the necessary documentation when the province introduced the general legislation. We went back to council and asked it what it wanted to do with it and council decided to hold it in abeyance to give the general legislation an opportunity to be formulated.

At that point, while we were assessing the general legislation, we had further public concern that we had not proceeded with our application and that the provincial legislation was merely a minimum standard and did not address the concerns of both employers and employees in the workplace and the city agreed to pursue this application.

Mr Saint: You talked about the repercussions for business. Someone asked a question about how stores were affected. I just wanted to add the point that we can currently license, and do license, stores and shops that sell tobacco products. They actually were interested in our further regulating vending machines because they said: "It's unfair that we are regulated to ensure that kids can't buy cigarettes here and there are vending machines sitting in open areas in malls and such. They should be regulated."

Mr Sutherland: You are using the Toronto and Hamilton acts just as a basis. I notice again that you have public inspection here. I thought most of the smoking control acts had a public complaint process.

Mr Saint: When all of the non-smoking groups lobbied us, that is exactly what they wanted to remove. It was unfair that someone should have to complain about smoking to be assured of a smoke-free workplace. They would be subject to peer pressure and other kinds of recrimination and were actually loath to complain. This was something that was also identified to me by the Toronto department of public health. I understand that in the future the city of Toronto is going to be seeking stronger enabling legislation to do exactly what we are looking to do here, which is to prohibit smoking outright, make it so people do not have to complain about smoking in the workplace to entitle them to a smoke-free workplace.

Mr Sola: I would just like to ask one simple question of Bob Chiarelli. How on earth did you beat out Norm Sterling to the sponsorship of these two bills?

Mr Chiarelli: I represent the city of Ottawa and Mr Sterling does not.

The Chair: Are there any comments from the government?

Mr Ferguson: I just want to note that the Minister of Labour is also in support of the bill. I want to quote from his letter: "I'm pleased to see this action being taken by the city. As you know, a number of municipalities already have bylaws in place regarding smoking in the workplace and I hope that Ottawa's proposal will encourage other municipalities across the province to develop similar laws."

Mr Chiarelli: There was an amendment suggested. I do not know whether anyone has a copy of it to move.

The Chair: Mr Sutherland moves that subsection 4(3) of the bill be struck out and the following substituted:

"A warrant executed under this section shall be executed between the hours of 6 am and 9 pm unless otherwise specified in the warrant."

Motion agreed to.

Sections 1 to 3, inclusive, agreed to.

Section 4, as amended, agreed to.

Sections 5 to 8, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

CITY OF OTTAWA ACT, 1991

Consideration of Bill Pr31, An Act respecting the City of Ottawa.

Sections 1 to 7, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

MAGNUM INTERNATIONAL PRODUCTIONS INC ACT, 1991

Consideration of Bill Pr42, An Act to revive Magnum International Productions Inc.

The Chair: We will call Bill Pr42, An Act to revive Magnum International Productions Inc. Would the sponsor and witnesses please identify themselves for Hansard and the committee.

Mr Mahoney: I am the sponsor. I believe the witness is George Miller, solicitor.

The Chair: Does Mr Miller have a statement?

Mr Miller: This corporation is the general partner in a limited partnership that produced a film called Clown Murders.

Mr Mahoney: Shot at Queen's Park.

Mr Miller: Shot at Queen's Park. It was the first film John Candy appeared in. Due to inadvertence, the charter was cancelled. There are now substantial funds in the United States earned from exploitation of that film. We are unable to disburse the funds because the general partner conduit, Magnum International Productions Inc, has had its charter cancelled. That is, in substance, the reason for the application.

Mr Sola: Are there any objections from the government regarding this bill?

Mr Ferguson: Absolutely not. If Mr Mahoney is in favour and we are in favour.

Mr Sola: If Mahoney is in favour, we are all in favour.

The Chair: Are there any objectors in attendance?

Mr J. Wilson: Just for the record, why did Magnum International Productions fail to comply with the Corporations Tax Act? How did it dissolve?

Mr Miller: The film was not a success when it was originally produced and notices went to addresses where the corporation no longer resided. It was a matter of inadvertence. It happened and no one realized it happened. It had no taxable income.

The Chair: Are the members ready to vote?

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

1030

CITY OF TORONTO ACT, 1990

Consideration of Bill Pr33, An Act respecting the City of Toronto.

The Chair: We will call Bill Pr33, An Act respecting the City of Toronto. Mr Silipo, would you like to do the voting at the end of all the bills or after each bill?

Mr Silipo: As you prefer. There are amendments to each one of them, I gather, so you may want to deal with them separately as far as voting is concerned. It will be easier.

The Chair: Fine. We will deal with them separately. Would you introduce your witnesses.

Mr Silipo: I will introduce Pat Foran, from the legal department of the city of Toronto, and Gail Johnson, the manager of the zoning legislation division in the department of planning and development.

I guess if we do them in sequence, Bill Pr33 is essentially a bill that would allow the city council to pass bylaws regulating and prohibiting the discharge of water into any ravine. That expands the powers that are presently allowed in terms of regulating and prohibiting disposal from sources located outside the ravines. If members of the committee have any questions, they certainly can be dealt with.

Mr Ruprecht: Let me say at the outset that whenever I see Pat Foran here before this committee in her capacity as legal counsel for the city, normally these bills are well researched and well thought out and I normally have no hesitation in supporting them.

I only have one question, an informative question, I guess, nothing of great substance. In terms of the ravine bylaw which you are before us to get passed, have you had various negative experiences in terms of people draining their pools into the ravine? Where has this been taking place? Is this all over the city? What have you experienced there?

Ms Foran: Yes, we have had very serious problems. We have some pictures to show you. We could show you where the offenders are located primarily, if you would like Ms Johnson to show you. She is the one who can answer better about the locations.

Mr Ruprecht: I would appreciate that very much.

Ms Johnson: This bill is really about being good neighbours and about protecting the environment for future generations and preserving those remnant natural areas that we have in the city. In the city, from any major intersection—it would be a surprise to many people from outside of the city—you can leave the high-rises, leave the bustle behind and descend into the city's ravine system.

Mr Ruprecht: I told you it was well prepared.

Ms Johnson: The ravine area we have left in the city is not a major portion of our actual land area, as you can see. The areas in green and yellow on this map of the city are the residual ravines that we have left in the city of Toronto. They are a very valuable resource. They are highly treasured by our residents because we are living in this dense city and this is one of our few opportunities to get away from the traffic, from the high-rises, from what many people throughout the city, and I tend to agree, consider a bit of madness, into a leafy, green world where you can walk in the snow, collect leaves with your children or have a picnic.

We have 29 ravines in the city of Toronto. The ones in green are designated under the city of Toronto's official plan. The ones in yellow, which are the tributaries and the main portions of the Humber and the Don rivers, are under the jurisdiction of the Metropolitan Toronto and Region Conservation Authority. City staff and the conservation authority staff work very closely together to protect these ravines.

We started our ravine management program in 1980. We have designated our ravines in the official plan. We have bylaws under the policies in our official plan. We have undertaken a very broad-ranging public education and public awareness program with property owners throughout the ravines.

The ravines work out to be about 50% in public ownership and 50% in private ownership. The bottoms of our ravines may have wonderful walkway systems through them, but the actual slopes are the backyards of houses. Those pictures—and I apologize that our budget does not allow for 12 by 12s—show that they are magical places and, as I say, they are very highly valued.

We have been very successful in the city in controlling and reducing the vegetation removal in the actual ravines and on the private property portions. We have had the wide support of residents throughout the city in our protection programs. Where we have problems today, and this is the reason the bill is before your committee, is with individuals who are not acting as good neighbours, who dump construction materials, refuse, garbage of all sorts from the adjacent tableland into the designated ravine. We also have trouble with individuals who drain their swimming pools, and

therefore that chlorinated water is not only causing erosion but is slowly killing the vegetation in the ravines. Instead of draining their swimming pools right out to the street where there is a storm drain, they actually put the long hose over the top of the bank and drain it down into the ravine.

We have also had problems—and this can be from both houses and larger buildings adjacent to the ravines—with individuals whoinstead of taking their roof drains and building a container for that drainage with granular material in it so it will sink into the soil, basically run the eavestroughs over the top of a bank, and then what you have is erosion down the ravine slope. We have documented many instances of this. It has been of wide concern to members of our city council. We receive complaints from adjacent property owners pretty well every time one of these instances occurs because, as I say, the ravines are highly valued.

That is why Bill Pr33 is before you, to help the city ensure that individuals act as good neighbours to protect our environment for future generations and to preserve a very valuable resource.

These pictures show instances in ravines from east to west in the city—each picture is a different ravine—where we have had fill dumped over the bank, and garbage, construction material, debris. We need a clear legislative framework for ensuring that our enforcement people can have these situations cleaned up and the bank restored to a natural state.

The very last picture is an incident that just occurred several weeks ago of a swimming pool where the property owner had drained his swimming pool over the top of the bank, creating erosion channels.

1040

Mr Ruprecht: I have just one other minor question. When you are talking about designated ravines on the map, behind the pictures, will this bylaw then only cover those ravines which you have designated or will this bylaw cover other ravines as well, and if there are other ravines, what would they be?

Ms Johnson: It only applies to the designated ravines. There are 29 ravines in total in the city; 27 of them are designated and the remaining two are listed, with designation to follow this year.

Mr Ruprecht: Are they all on this map?

Ms Johnson: They are all on this map.

Mr J. Wilson: The city itself, I guess, does not have the authority now, and that is why you want the bill, to prohibit these actions and follow up with charges, but is it not under the Conservation Authorities Act? How does that work?

Ms Johnson: Most of these ravines are not under the jurisdiction of the conservation authority; only those shown in yellow are. At the same time, no, they would not have that power. We will be working hand in hand with the conservation authority in respect of the ravines that are designated as well. The only possible conflict with the power of the conservation authority is covered in the proposed amendment which arises from the Ministry of Natural Resources, and that deals with the dumping of fill, so we would still be enforcing the bylaw with respect to the dumping of water and debris in the areas covered by the conservation authority.

Mr J. Wilson: I am just curious. Without the bylaw, what do you currently do when you see those instances?

Ms Johnson: At the present time we have legislation which governs destruction of trees, dumping of debris within the ravine itself, or if we could prove that something happened on the adjacent tableland that caused the destruction of vegetation or plants within the ravine, we would prosecute. What we are trying to do here is to take preventive measures. It is too late once we discover there is damage, because it cannot be repaired. What we are trying to do here is to get the power to regulate it in advance, or to prohibit it in advance, so we would be moving fairly quickly to take preventive measures, rather than trying to charge people after the damage has been done and the ravine has been destroyed for future generations.

Mr O'Connor: I want to thank you for coming so well prepared. Your visual display here, though the pictures were small, was quite effective. When I got up and took a look at them, you could see the potential for damage that could happen. By just looking at the bill itself, though, it sounds very common sense. When you take a look at the pictures, you can really see the effects that would happen without this legislation.

I have an amendment here that I would like to move, if it is in order.

The Chair: Mr O'Connor moves that section 1 of the bill be amended by adding the following subsection:

"(2) Despite clause (1)(c), if the regulation is made under clause 28(1)(f) of the Conservation Authorities Act respecting the placing or dumping of excavated material in any area of the city of Toronto, a bylaw passed under clause (1)(c) ceases to have effect in that area upon the coming into force of the regulation."

Motion agreed to.

The Chair: Does the government have any comments on this bill?

Mr Ferguson: No, we are fully in support of the bill, Mr Chair.

The Chair: Okay. We will call for the vote.

Section 1, as amended, agreed to.

Sections 2 and 3 agreed to.

Preamble agreed to.

Bill ordered to be reported.

CITY OF TORONTO ACT, 1990

Consideration of Bill Pr34, An Act respecting the City of Toronto.

The Chair: We will go on to Bill Pr34, An Act respecting the City of Toronto, and again please identify yourselves for Hansard.

Mr Silipo: Tony Silipo, MPP for Dovercourt, and Pat Foran from the legal department.

Ms Foran: I have Ed Pesendorfer of the department of buildings and inspections.

Mr Silipo: This bill deals with one of the areas that was mentioned in the other presentation, with controlling

or prohibiting refuse from construction sites to be placed on either public or private properties. Ms. Foran may want to add something to that.

Ms Foran: Bill Pr34 would permit the city to pass bylaws which would prohibit persons from causing or permitting refuse or debris originating from a construction site to be placed, deposited or blown on to someone else's property without consent. In the bill "construction site" is defined to mean any land upon which new or used materials or equipment is located in relation to the renovation, construction or demolition of any building or structure.

There was some concern raised by the Ontario General Contractors Association and the Toronto Construction Association in respect of the use of the word "blown" because of the inability to control blowing of dust. In order to satisfy those concerns, council has asked me to ask your committee to amend Bill Pr34 so that it is expressly set out that refuse and debris do not include dust.

What Bill Pr34 is intended to deal with is where either a person deliberately places construction material or debris on his neighbour's property or such debris is improperly stored and therefore blows over on to another property. We have numerous complaints on this each day. There is provision in the Municipal Act which would prohibit the throwing, placing or depositing of refuse, but there you have to catch the person doing it. In this case, what we are looking for is to go beyond that and say that if in fact you cause it or you permit it, we could charge you under the act arising out of Bill Pr34.

As I have said, council is acting to resolve a very real concern of a large number of people in Toronto, and I have with me Mr Pesendorfer, of the department of buildings and inspections, to answer any specific questions you may have.

Mr Sola: You just stated that under the present circumstances you have to prove that somebody caused the damage. How would you prove that they permitted that something was dumped or the damage was caused? Somebody could come at midnight and dump a load there, and I do not think it would be fair to charge an owner for the simple fact that he or she is an owner of a property.

Ms Foran: It would go to proof in the courts. If somebody is carrying on construction or demolition or renovation on one piece of property and there is construction material blown over on to the other person's property, then you would go and see if it was the same kind of material or whether you have sufficient evidence to lay the charge. On just the fact that somebody comes in and does it at midnight, you would still have to go to court and show that the owner of where the construction material arose did actually permit it or cause it. If you cannot prove your case, then you would not be very successful in the courts, and of course we would not be laying the charges. We would look for the evidence before we would lay the charge.

1050

The Chair: Mr Sutherland moves that section 1 of the bill be amended by adding the following subsection:

"(3) In subsection (2), refuse or debris does not include dust."

Mr O'Connor: The Ontario General Contractors Association was concerned about that, and so we have this amendment, of course. Does that satisfy them?

Ms Foran: They have recently, I understand, raised another concern. They say maybe we should further define "dust" to not include coffee cups. There is a limit how far we can go to say what dust is. I think that would be a matter for the courts to determine. If we lay a charge, and it is something dealing with dust, the courts would not enforce the bylaw, so I think that is up to the courts. That was about as far as I could go to satisfy their concern. I thought their concerns had all been satisfied by this amendment, and indeed they have. They have been to the committee at council and were satisfied, but in the last day or so something has surfaced dealing with coffee cups. There is no way I can deal with that. That again is a question of the evidence that would have to be put forward.

Mr Sutherland: Maybe we could donate some recyclable mugs to the Ontario General Contractors Association to solve that problem.

The Chair: Mr Ferguson, any comment on behalf of the government?

Mr Ferguson: The government supports this proposal.

Motion agreed to.

Section 1, as amended, agreed to.

Sections 2 and 3 agreed to.

Preamble agreed to.

Bill ordered to be reported.

CITY OF TORONTO ACT, 1991

Consideration of Bill Pr50, An Act respecting the City of Toronto.

The Chair: We go on to Bill Pr50, An Act respecting the City of Toronto, and again the sponsor is Mr Silipo. Would the witnesses identify themselves, please.

Ms Foran: I have with me Danny Ostapiak who is the city surveyor for the city of Toronto. He will answer the technical questions.

Mr Silipo: Essentially, this bill would provide council with an ability under the Planning Act to reinstate subdivision control over lands if the council would so decide. That essentially would mean that people who wanted to sell or sever those lands would have to apply to council and go through the process. I think it clears up some potential problems that could develop in the future. Again, Ms Foran may want to add to that.

Ms Foran: Yes. Legislation in the form of Bill Pr50 is required to plug what the city conceives to be a gap in the Planning Act. Basically, Bill Pr50 applies to lands that are covered by more than one successive plan of subdivision registered over the years. For example, an illustration would be where lands were originally included in a plan of subdivision, say in 1850, showing one-acre lots, and then maybe in 1900 a new plan of subdivision was put on part of the old plan of subdivision which would show smaller lots, maybe half-acre lots. Then in 1970, a third plan of subdivision was put on, maybe showing 50-foot frontages and one sixteenth of an acre or something like that.

It is a very technical bill. Basically, subsection 49(3) of the Planning Act, which I think you are all familiar with, deals with subdivision control, where you cannot convey land if you own abutting land unless it is in accordance with the plan of subdivision or you receive approval for the severance. Under subsection 49(4) of the Planning Act, city council may designate any plan of subdivision or part thereof which has been registered for more than eight years, and when council designates a plan of subdivision under that subsection, it is deemed not to be a plan of subdivision for purposes of section 49.

The effect of designating a plan of subdivision under subsection 49(4) is to reinstate subdivision control. The problem arises where you have these successive plans of subdivision put on over a number of years. Subsection 49(4) requires that the bylaw be registered, but it does not say against what plan of subdivision.

The city would like to have been able to register the bylaw against all the lands in every successive plan of subdivision. However, officials at the land registry offices refused to so register the bylaw, simply because it is their position that they will only register it against the current plan of subdivision.

We are concerned that a court may say the ministry must register a deed against an older plan of subdivision if a person so requires, and therefore that there is a gap in the Planning Act. It is a small gap, but it is very real for us in the city of Toronto where we have a lot of successive plans of subdivision in the older settled areas.

Logically it would have been nice to amend the Planning Act. That just did not work out. We tried, and there was no real consensus among the ministry staff as to how it would happen. We feel that Bill Pr50 would plug that gap. We have worked with the ministry staff to make sure they are satisfied it would. As I said, I have Mr Ostapiak here to answer any specific technical questions because it is a very technical bill. But then, section 49 of the Planning Act is very technical, too, bo we have done the best we can to make it simple, but it is not an easy concept.

The Chair: Okay. Mr Ferguson, are there any comments on behalf of the government?

Mr Ferguson: The government supports this bill, but as the delegation so aptly put it, it is a very technical bill, and if you are not thoroughly confused by now, then you are not paying attention.

We have a minor amendment. I would like to thank the clerk for shutting the door as well. I understand that is Mr Harris singing down the hall. The latest poll came out indicating the Tories have reached double digits finally.

Mr Sola: There are no partisan speeches.

Mr Ferguson: No, none at all. My goodness, let's not get political. Mr O'Connor has the amendment.

The Chair: Mr O'Connor moves that section 2 of the bill be amended by adding at the end "if the bylaw is registered against what was, at the time of the registration, the current geographic designation of, or the current land titles parcel register for, the lands which are covered by such plans."

Mr Sutherland: I think that clarifies it.

Mr O'Connor: That clarifies what Will said.

The Chair: Okay, are we ready to vote on the bill?

Mr Sola: I would just like to ask a question. Are there any opponents to this? Is there anybody who understands this enough to be able to oppose it?

Mr Silipo: I am sure lots of people do understand it and in fact agree to it, but I do not know if there are any opponents.

Ms Foran: I think everybody supports it wholeheartedly.

Mr Silipo: Seriously, I can tell you, Mr Sola and members of the committee, as someone who in a former life did a little bit of work in the whole area of real estate law, that any effort that resolves some of the ambiguities that exist there, or possible ambiguities between the registry office and parties having to go before courts to argue, is certainly welcome.

Mr Sola: I will take your word for it.

Section 1 agreed to.
Section 2, as amended, agreed to.
Sections 3 and 4 agreed to.
Preamble agreed to.
Bill ordered to be reported.

CITY OF CHATHAM ACT, 1991

Consideration of Bill Pr75, An Act respecting the City of Chatham.

The Chair: Would the sponsor and witnesses please identify themselves for Hansard.

Mr Hope: I am Randy Hope, the member for Chatham-Kent, and also with me is Brian Knott, the solicitor and clerk of the city of Chatham.

The Chair: Does Mr Knott have any statement on this bill?

Mr Knott: Yes, I do, Mr Chairman. The Maple City Centre for Older Adults was incorporated on 25 January 1971 with the purpose of operating a social and recreational centre for adults. The land on which a new facility for the seniors was built is located on lands leased from the corporation of the city of Chatham. Because of the long-term lease, under the Assessment Act these lands now become taxable and what the city of Chatham is seeking to do is to have authority to exempt the real property leased by the Maple City Centre for Older Adults from taxation for municipal and school purposes.

The Chair: Any comments from the government?

Mr Ferguson: The government supports the bill.

Mr O'Connor: I want to thank you for coming today and I want to thank Mr Hope for bringing this before us. I believe that if Mr Hope is in full agreement, then we have no reason to argue this—

Mr Sutherland: Oh yes, we do.

Mr O'Connor: Thank you.

Mr Ruprecht: The opposition would agree.

Mr Hope: Just for the record, I would like to make mention of the public sector workers of the city of Chatham and also Mr Knott for the work that was put behind this

piece of legislation. They did an extremely fine job, and also a fine job of informing me of what is going on. I think they deserve credit—I just wanted to have that noted for the minutes and for Hansard—and also the older adult centre, which I think is our future of making activity available for seniors in our community.

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

The Chair: We have one more item. Can we recess for about five minutes?

The committee recessed at 1103.

1114

REGULATION 144/91, POLICE SERVICES ACT, 1990

The Chair: We have consideration of correspondence concerning Ontario regulation 144/91 made under the Police Services Act, 1990.

Mr Fenson: The committee has received correspondence from the city of Toronto and the municipality of Metropolitan Toronto saying that those municipalities have adopted motions that the regulation creating the text of new oaths for members of police services boards and for police and auxiliary police be challenged in the courts, on the grounds that they do not refer to the Queen but rather to Canada and the upholding of its Constitution, and also that the regulation be referred to this committee in the hope that it will be found to be outside the power of the province to make, and in violation of two of the guidelines which govern this committee's review of regulations.

As I have explained to the committee, in the ordinary course of events, I would be reviewing the 1991 regulations around the time that they are all available, namely, at the end of the year, but there is nothing to stop the committee from having this regulation reviewed at any time. I am here to get the committee's instructions as to whether it wants me to proceed according to the ordinary schedule or to look exceptionally at this regulation now and give the committee my findings, so that the committee can decide whether or not it wants to report to the House on this particular regulation.

Mr Ruprecht: For the record—I was not quite sure—what is your title and position? Could you give that to us.

Mr Fenson: I am Avrum Fenson of the legislative research service and I assist the committee in its review of regulations.

Mr Ruprecht: Is it your view then, if I heard you correctly, through your research, that it is in the purview of this committee to look at the regulation and to come up with a recommendation to the Legislature? Is this correct?

Mr Fenson: This is definitely correct, and it is on that basis that I review a year's worth of regulations and bring to this committee draft reports for it to consider. Yes, it is definitely in the committee's purview.

Mr Ruprecht: If that is the case, then this committee could make a recommendation to the Legislature whether to change or appeal or alter to any degree the present regulation which takes the Queen out of the oath in the Police Services Act. Is that correct?

Mr Fenson: Yes, the Regulations Act, subsection 12(5), says that the standing committee "shall, from time to time, report to the assembly its observations, opinions and recommendations." It is under that provision that the committee reports its views on regulations which it thinks are in violation of the guidelines in the standing orders. Certainly, in the ordinary course of events, the committee would be reviewing that regulation, and depending on what it found, might be giving its observations, opinions and recommendations to the House.

Mr Ruprecht: In that case, I would offer a motion at this point.

The Chair: I would like to ask an opinion from the government first.

Mr Ferguson: First of all, I have a question, and then second, I have a comment. My question is, why would we be reviewing this regulation? What would the purpose be in the normal course of events?

Mr Fenson: In the normal course of events this regulation would be reviewed to see whether or not it is in accord with nine guidelines that appear in standing order 104(k). That is the section which sets up this committee and gives it its duties to deal with private bills and regulations. The standing order says that in the review of the regulations, "regard shall be had to the following guidelines," and it lists nine guidelines.

For this committee I look at all regulations made during the course of the year and check them against these nine guidelines. If there is a question I make an inquiry generally of the legal department of the ministry responsible. That is also required in the guidelines, in the statute. Then if there is an oustanding problem, I report it or I include comments in the draft report which the committee then considers and tables.

Mr Ferguson: I just want to note that the reason this matter is before this committee is not because of a private member raising the issue and saying we should examine this regulation. This matter is before this committee because Metropolitan Toronto has asked the committee to examine the issue, not in relation to whether or not it meets the guidelines as set out in the standing order, but to determine the constitutionality of whether or not this is within the Canadian Charter of Rights and Freedoms, and whether it is beyond the authority of Ontario and whether or not this entire matter is in fact constitutional. I want to submit to you, Mr Chair, that it is not for this committee to decide that question.

1120

Mr Ruprecht: Mr Chairman, I would remind you that I wanted to make a motion, and you can have discussion on it.

The Chair: Mr Ruprecht moves that this committee make a recommendation to the Legislature to repeal the present regulation, which excludes Her Majesty the Queen from the Police Services Act.

Do we have a seconder? Mr Sola.

Mr O'Connor: I think the motion is a little bit out of line at this point. Of course, it is completely up to the

member to bring the motion forward, but we have not even decided whether this committee should be actually taking a look at it. We are not Supreme Court judges, nor are a lot of us even lawyers, so on looking at the constitutionality of this issue, I do not believe it is for us to decide. I believe it is up to the courts to go that avenue. It is up to the city of Toronto if it so wishes to take a look at it through the courts.

I think Mr Fenson's duties, in assisting this committee, are to look at regulations as they come forward as mandated through the Legislative Assembly. We should be watching that we are not necessarily just reacting to city councils that may not agree with the regulations, but making sure that the regulations are in fact properly looked at in the normal course of events. As to whether or not this committee can make a value judgement on the constitutionality of the oath, I do not believe this committee should be speaking to that, so I will not support the motion.

The Chair: Mr Sutherland was next, but would you mind if I went to the other side to get an opinion?

Mr Sutherland: Sure; go ahead.

Mr Sola: I think all we are asking, or that the city of Toronto was asking, is that the time frame in which Mr Fenson would look at this regulation should be moved up. I guess they would like to avoid the legal expense of going to court. If this committee decided in accordance with Mr Fenson's point of view, after having studied this question—whether it is unconstitutional or no—that it is constitutional, then they would go to court to see whether it agreed or not. I think all they are trying to do is avoid a court case, if we come down on the issue on one side or the other. If we wash our hands, eventually they will come up with an opinion on this thing, but they will have spent so many thousands of dollars going to court.

Mr Sutherland: I have not received a phone call from the Prime Minister indicating that I have been put on the Supreme Court of Canada or on to any court, so I do not feel comfortable with this committee looking at the issue of constitutionality. You can get opinions on whether it is or it is not—and obviously Metro council has its opinion—but ultimately it is an issue, as most constitutional issues are, that needs to be decided by the courts. Mr Ruprecht's motion here to repeal is, I think, very premature. This committee does not have a mandate to decide whether something is constitutional or unconstitutional or give opinions to that effect. If Metro council wants that opinion, I think it knows the appropriate procedure for getting that opinion.

Mr Ruprecht: I want to remind members of the committee that my first question to counsel was whether it is within the purview of the committee to be able to make recommendations to the Legislature and to deal with this matter since it is a regulatory item. The answer we received was very clear and that was a definite yes, it is within our jurisdiction to make recommendations to the Legislature. Consequently, having received that answer, I then formulated my motion.

Whether you want to say that we do not have the right or that we want to look into the constitutional situation or that you are not a judge yet, depends, I would think, on how you will vote on this motion. Mr Mulroney might consider this matter or even other persons might consider the matter. I just want to be very clear and I think you understand that this is a clear situation, that we have the right as a committee to make that decision, so it is no use to camouflage it and throw some other item into the arena when we are authorized to do that very specifically and clearly.

Mr Abel: I think Mr Ruprecht's motion goes far beyond our scope of jurisdiction. I would certainly feel very uncomfortable having to decide or even recommend on the constitutionality of the oath of allegiance, and I certainly would not support that motion.

Mr Sola: I do not think we are changing the jurisdiction of this committee. The motion may change the direction slightly, but this request from Metropolitan Toronto just asks for a change in the time frame in which we would normally give our opinion. That is the way I understand it. It is like closing the barn door after the horse has left if they go to court and we come up with a decision that would support their point of view after they have gone to court, so I think all we are trying to do is move up the time frame, and rather than get it at Christmas, to get it now.

Mr Abel: You may want our resignations.

Mr Sola: We will be actually making this recommendation whether we like it or not, according to the opinion of our legal counsel.

Mr Ferguson: I think there has been some misrepresentation here of exactly what Metro has asked for. I just want to read into the record, so that everybody is clear, what it has asked for. Their letter dated 3 June 1991 to the office of the Clerk, committees branch, Mr Decker, signed by H. W. O. Doyle, metropolitan solicitor, in part states:

"In particular, the metropolitan council respectfully requests the standing committee to examine whether or not the regulation is unconstitutional as being inconsistent with the Canadian Charter of Rights and Freedoms as well as being beyond the authority of the province of Ontario to promulgate and to recommend that such regulation, if it is found to be unconstitutional, be repealed."

I think the members of this committee have been very clear and consistent in saying that it is not our duty, our role or our mandate to determine what is and what is not constitutional in this province. That is up to the courts to decide.

Mr Ruprecht: I respect my colleague Mr Ferguson in most cases, but I want to respond directly to his comments and quote what the city of Toronto letter of 4 June requests. On page 2, the fifth paragraph, it is very clear what they request:

"Whereas section 12 of the Regulations Act requires every regulation to be referred to the provincial standing committee on regulations and that the said committee examine the scope and method of the exercise of delegated legislative power...."

That is very true and that is where Mr Ferguson is right, but then, my friends, let's look at the resolution. It says—if I can get the undivided attention of the members, because we will have to vote on this item—"Be it further resolved that the Metropolitan Council request the provincial

standing committee on regulations to review the purported exercise of delegated legislative power in respect of the regulation in question and"—this is where my motion comes in—"recommend to the Legislative Assembly of Ontario that such regulation be repealed."

In short, very clearly we are asked to make a recommendation to the Legislative Assembly of Ontario. That is where my motion comes in.

Mr Ferguson: I move that the question be put.

The Chair: Shall the motion carry? Those opposed?

Mr Ferguson: No, I moved the motion that the question be put.

The Chair: That the question be put.

Mr Ruprecht: You have two of us on there, right?

The Chair: Yes.

Mr Ruprecht: The Conservative who just left would probably support us.

Mr Ferguson: So we have just decided that the question shall be put. Now can we vote on the main motion?

The Chair: Can we vote on Mr Ruprecht's motion? Those in favour? Those opposed?

Motion negatived.

Mr O'Connor: I believe this will be dealt with in the appropriate time frame of this committee, so I thank you.

Mr Ferguson: Absolutely.

The committee adjourned at 1133.

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Wednesday 26 June 1991

Journal des débats (Hansard)

Le mercredi 26 juin 1991

Standing committee on regulations and private bills

Comité permanent des règlements et des projets de loi d'intérêt privé

Chair: Ron Hansen
Clerk: Todd Decker

Président : Ron Hansen
Greffier : Todd Decker

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The committee met at 1012 in committee room 1.

ROYAL CONSERVATORY OF MUSIC ACT, 1991

Consideration of Bill Pr70, An Act respecting The Royal Conservatory of Music.

The Chair: Good morning. We will start with Bill Pr70, An Act respecting the Royal Conservatory of Music. Would you please identify the sponsor and witness.

Mr Silipo: My name is Tony Silipo, MPP for Dovercourt. I am pleased to be the sponsor of this bill. With me at the table is Robin Fraser, a solicitor from Fraser and Beatty, representing the Royal Conservatory of Music. There are other people in the room who can be called upon if need be to answer any of the questions.

This bill creates the Royal Conservatory of Music and, in effect, creates it as a separate entity. It is now part of the University of Toronto and for some years there have been discussions ongoing between the Royal Conservatory of Music and the University of Toronto with the objective of severing the conservatory and recreating it as a separate institution because in the past it was separate from the university.

The bill that is before you is the conclusion of many years of discussion and negotiations that have gone on between the various parties and represents an agreement reached by the various parties: the university, the royal conservatory and the faculty associations. So there has been a great deal of discussion, a great deal of coming together on the various points and issues raised in the bill.

What the bill does is transfer the property that now vests in the University of Toronto dealing with the Royal Conservatory of Music to the Royal Conservatory of Music, sets it up as an independent body and continues all of the rights that the royal conservatory now enjoys as part of the university under the Conservatory as a separate entity.

I know there have been a number of problems that have had to be worked out in going through this process, and our sense is that most of those have been dealt with. I know there are a couple of issues over which there may still be some concern, and I note that the city of Toronto is here this morning as an objector on, I gather, one or possibly two of the areas. I believe two amendments have been distributed to members of the committee which have been put together through Mr Fraser and the conservatory and we hope to address those concerns.

The first deals with concerns under section 49 of the Planning Act. As I understand it, the issue there is that the process under the Planning Act has not been followed in this case. It is our view that this is a situation where it is not appropriate or useful for the process in that sense to be followed, because all that is happening, as I mentioned earlier, is that the property and all of the rights that vest with it are being transferred from the university to the conservatory.

There are no additional rights that are being gained by the conservatory in that sense. Certainly there has never been any intention that they gain any additional rights that they could exercise against parties in subsequent transactions in the future. In fact, the amendment that is proposed applying to section 15 of the bill would, in our view, clarify the possible ambiguity that they might gain any additional rights. On that issue, hopefully that question is addressed.

Similarly, on the second issue in section 18 of the act there is an amendment we can speak to as well if that still remains a concern. I do not know if Mr Fraser wants to add anything to what I have said, but those would be my comments, and I would appreciate the opportunity to speak again later, following the presentation from the city of Toronto.

Mr Fraser: I have not much to add to what Mr Silipo has told you, except to say that on the section 49 aspect there are at least two rights that are set out in that very complicated schedule which may not happen within two years. Under the Planning Act, if a right is not transferred within two years, then any consent of the committee of adjustment is void, so that is one major reason why the process does not work in this case.

The other thing I would like to mention is that the city in no way is denied any of its rights over this property. The zoning bylaw is intact. It is a heritage building, and so they have absolute effective control over this piece of property after it is severed.

The Chair: Mr Ferguson, any comments?

Mr Ferguson: I do not have any comments at this point. I think I would like to hear from the city of Toronto first.

The Chair: Can we hear from the city of Toronto on this, as an objector? Would you please identify yourself for Hansard.

Ms Foran: My name is Pat Foran. I am the deputy city solicitor for the city of Toronto, and I am here today to put forward the position of the council of the city of Toronto in respect to this bill.

When council first heard this application in April 1991, it came as somewhat of a shock to find that the Royal Conservatory of Music and the University of Toronto were, under the guise of special legislation, asking the Legislature to circumvent two very important pieces of general legislation which apply to every other person and corporation in this province, other than the higher levels of government of course.

Surely if this is the case—and the application, as you have heard, involves an attempt to circumvent section 49 of

the Planning Act and the whole of the Expropriations Act—city council should have been made aware and consulted right from the start. Surely the notice of intention to apply for this legislation should have put the city on notice that these two pieces of legislation were being circumvented. But in the notice that was published there is no mention, other than that the application involved the separation from the University of Toronto of the conservatory and McMaster Hall, of the Planning Act or the Expropriations Act. It was only by inadvertence that we discovered the true nature of the draft bill and notified the council.

The council at that time asked that your committee not deal with it until such time as we were able to understand what was in the bill and what the ramifications were.

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At its meeting held on 17 and 18 June, council again dealt with the matter, and I think you have before you a certified copy of what council did at that time. In effect, council asked me to come forward and object to sections 15 and 18 and request that these two sections not be enacted. Council also asked us to come forward and deal with clause 8(g) of the schedule, which relates to a city sewer located on part of the property to be retained by the university and part of the property to be transferred to the conservatory.

I shall deal with section 15 first. Section 15 says that section 49 "does not apply with respect to a transfer of ownership of McMaster Hall from the university to the conservatory or with respect to the rights established by the schedule to this act."

As members of the committee are aware, section 49 of the Planning Act provides in part that no person shall convey land that is not within a registered plan of subdivision. If such person owns abutting land, either the land is put into a plan of subdivision or you get the consent of the appropriate authority. In the case of land situate in the city of Toronto, the appropriate authority to give such consent is the committee of adjustment.

This provision applies to every person in the province, other than the government of Ontario and other municipal levels of government. I have been unable to find a precedent for the Legislature to step in and wipe out the applicability of this section. This could start a whole new trend. If someone in the province does not like how severances are dealt with in the local municipality, then he can come to the Legislature and get it waived.

In the case of Bill Pr70, it is not a question of conveyancing or real estate. If it was just a question of real estate or conveyancing, it could be dealt with in the act. But here is the basic question of who has the ultimate responsibility for land use planning in this city.

What section 49 of the Planning Act does is allow the municipality and interested inhabitants the opportunity to examine the planning issues involved in a specific severance. I am sure most members of your committee are very aware of the importance which local municipalities and committees of adjustment and the public in general give to section 49 and what an outrage there would be in your local municipality if a major corporate land owner decided to circumvent the section by getting the blessing of the Legislature.

This is why city council is opposed to section 15 of the bill. The bill itself contains a very complex schedule, which certainly gives the university the right to sell all or part of the lands to a third party and requires the university to redevelop the lands. Otherwise part of the lands reverts back to the university.

The conservatory has a right to redevelop the lands, and if you look at what redevelopment means, it means new construction "above or below grade, at least 25,000 square feet of building on the property or any part thereof," but if the redevelopment is on the east wing of the existing building, then you only count the new construction above 27,000 square feet. We are not talking about the building as it exists today; we are talking about the right to redevelop that building.

If one looks at the survey or reference plan referred to in the schedule, certainly it looks to city staff as if a tremendous redevelopment with multi-below-grade levels may be envisaged. Clearly the sale of air rights or other use of air rights is envisaged, but we really do not know.

This is the problem: We do not know what is planned. No one has told city council. That is why city council wants to have section 49 apply. It will give the city and the citizens of this city the opportunity to see now what is happening. Maybe they will not be opposed to it. We do not know, because we just do not know what is being planned there.

If the Legislature enacts a provision such as section 15, then the opportunity for public participation is gone for ever, because clearly, once the section is enacted, section 49 will never apply to the lands until we get another private bill.

It is easy to say: "Why is the city concerned? The future owner is the conservatory. Nothing is going to change." But I have already told you that the conservatory can sell all or part of the land. Certainly there is major redevelopment permitted, if you read the schedule. A third and fourth and fifth party can get involved and can also rely on the provision to get around section 49.

Why should the conservatory and the university receive this special privilege? Should the conservatory and the university not have to comply with the law of the province in the same way as any other individual or corporate citizen of Ontario? Why the secrecy, that this did not show up in the notice of application? Why was not the city, the municipality most affected, consulted? I just do not know and neither does the council.

What I do know is that city council wants the opportunity to see what is proposed. What is involved in underground redevelopment? What is involved in the air rights? The city council does not accept the applicants' statement in the compendium that section 49 is not appropriate or workable in this instance.

A lot of people in this province, when faced with having to comply with section 49 of the Planning Act, would like to be able to say it is not appropriate or it is not workable. They may say that, but then they sit down and find out a way to make it work. They do not just run to the

Legislature and get it waived. We all have to comply with that section.

In the city of Toronto an application to get the consent of the committee of adjustment takes about three months. If the applicants had at least attempted in the last seven or eight years to get that consent, or even if they had, since city council raised its first objection in April, attempted to get that consent, we would at least know how the committee would have dealt with it and council would know what is being planned. But to come before the Legislature without even attempting to go to the committee of adjustment, on the sole basis that the section is inappropriate or unworkable, surely is an abuse and one which this committee should not condone.

I hear this morning about the two-year limitation and I think there would be ways to deal with that. For example, if the applicants were to go to the committee of adjustment and get approval to enter into the agreement that is set out in the schedule, then the council might well agree that section 49 would not apply in respect of transfers between the university and the conservatory, simply because it would have had an opportunity to see what is happening.

The problem is that no attempt has been made to go to the committee of adjustment. No one has come to the city of Toronto and said: "This is what is involved and this will be the result," or, "This is what is contemplated." No, they came to the Legislature and said that section 49 was not appropriate or workable. There are many people in this province who feel the same way, but they have to comply. For all of these reasons, on behalf of the city of Toronto I respectfully request that section 15 be struck out.

We also have an objection with respect to section 18. As you know, section 18 of the act says that McMaster Hall is exempt from the Expropriations Act and "no power to expropriate property conferred after this act comes into force" can give anybody the right to expropriate McMaster Hall or any part "unless the act conferring the power states that it is to prevail over the Royal Conservatory of Music Act, 1991."

The staff at the city, in particular the commissioner of city property, has taken a firm position and advised council that McMaster Hall should not be exempt from expropriation proceedings under the provisions of the Expropriations Act. The rationale the commissioner has put forward is that unless the owners are the government of Ontario or a crown corporation, McMaster Hall should be given no greater privilege or rights than any other organization located within the province. That right does not include an exemption from expropriation.

If section 18 were allowed to stand it would set a precedent and permit other similar organizations to apply for exemptions from expropriations. City council's main concern is that the exemption for expropriation in the proposed act is not restricted to the period of time when the lands are owned by the university or by the conservatory, but only extends to while the university retains any rights under the schedule. If you read the schedule, it is very difficult to determine how long those rights remain. There is agreement for extension of the period of time. It is a very confusing schedule if you have not been involved in the negotiation of it.

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There is another concern. Subsection 18(2) says that if you have the power to expropriate later on, the act conferring such power must state specifically that it prevails over Bill Pr70. I am not quite sure how the courts would interpret that, but it looks to me that if the city were ever to get back power to expropriate anything dealing with McMaster Hall, then presumably the city would have to come back here and get another special act. That seems like a lot of extra work involved. We really feel that subsections 18(1) and (2) should be deleted. It is just not legally acceptable to the city.

There has been an argument raised that since the university lands are not subject to expropriation, why should McMaster Hall be? Again, as I have explained, the very essence of the schedule to Bill Pr70 is that there is a great probability that McMaster Hall as we know it today will not remain totally in the ownership of the conservatory. Air rights can be sold. Subsurface rights can be sold. There are redevelopment rights to be established. Clearly at some time there will be other parties involved. Why should the city's expropriating powers be taken away by private act? Should not the conservatory and its successors in title be on the same footing as any other land owner in Ontario in so far as expropriating powers are concerned?

I am quite sure that in your own local municipalities throughout the province there are a lot of individuals and corporations who would like to get out of any threat of expropriation by a municipality. What if each one of them decided: "We don't like the Expropriations Act. We don't want our municipality to expropriate us." Can they all come down to the Legislature and get an exemption the same way as this bill? We feel it is setting a bad precedent. It is bad for the city and it is bad for the province. It gives the impression that if you do not like the powers of a municipality, then you get a special act so those powers do not apply to you or your land. "Let the rest of the people in the province comply with them, but not me." This is simply a bad precedent. It is bad for the city and bad for the province in general. On behalf of city council, I request that it be struck out.

The third point is the easements set out in the schedule. They relate to a city sewer located partly on the land owned by the university that will be retained by the university and partly on the land that will be conveyed to the conservatory. Council would like to have the schedule amended to reflect that the sewers are in fact under the jurisdiction of the city, to provide for their future maintenance, repair and replacement and to provide for agreements between the university, the conservatory and successors in title to the university and conservatory.

Basically what city council is trying to achieve here is to protect a public utility. This is important to the city. The public sewer is a major sewer that runs across the land. The city has an obligation to the general public to ensure that this public asset is properly described in the bill and that its future use, maintenance, repair and replacement are

ensured. For that reason, city council respectfully requests that the schedule to the act be so amended.

In conclusion, I request on behalf of the council of the city of Toronto that your committee not approve sections 15 and 18 of Bill Pr70 and that the schedule be amended to comply with the request from city council in respect of the city sewer.

Mr Ferguson: I have a couple of questions of Ms Foran. You were speaking about Toronto's position concerning an exemption from expropriation. Is that the council's position or is that the staff's position?

Ms Foran: That is the council's position.

Mr Ferguson: Essentially what we are talking about here is the transfer of McMaster Hall to the Royal Conservatory of Music. Would you be able to advise the committee what the zoning would be on the land McMaster Hall is situated on?

Ms Foran: No, I am not able to advise you.

Mr Ferguson: I assume it is institutional.

Ms Foran: I would not guess at this stage. I did not get around to checking. I do not think you gave us very much notice on this bill.

Mr Silipo: I just want to say in response to Ms Foran's presentation that certainly I, as the sponsor of this bill, do not have any particular difference of opinion with what she said in principle. I would certainly be one who supports very strongly the need for processes under the Planning Act and the Expropriations Act to be followed. I think the two amendments that are suggested, one, under section 15, dealing with the Planning Act and two, under section 18, dealing with the expropriations issue, hopefully clarify any ambiguity there might be.

Essentially the point I want to make is that with this bill the conservatory is not gaining any rights that the university does not now have. In other words, we are not creating any additional rights that would be vesting in the conservatory by way of this act. Any development that might be planned by the conservatory in the future would certainly be subject to all of the processes, all of the bylaws and all of the guidelines that anybody would need to follow in the city of Toronto.

In that context, I am not sure whether the issue of the city knowing or not knowing what is planned—I do not know what is planned, if anything is planned. I think the issue is that the process would have to be followed. I think the amendment proposed under section 15 would make that clearer, because it is my understanding that the conservatory could not sell any or part of the land by purview of this bill being enacted and that all of the processes would have to be followed if that were to happen.

I cannot comment with respect to the notice provisions and the city not being involved in this, because I of course have not been involved in this going back that far.

On the other issue of expropriation, I think the point that was made was that the city's expropriation rights should not be taken away by a private act. My understanding is that this would not happen, that in fact the bill merely continues an exemption to expropriations which now vests in the University of Toronto and would be carried forward under the entity of the new body, the Royal Conservatory of Music.

There are not any new rights being created through this legislation. There is simply a continuation of existing rights vesting in a different body than exists now.

I invite Mr Fraser to amplify on those and perhaps to also address the third issue, the easements, which I do not have any comments on.

Mr Fraser: I would like to emphasize to this committee that the reference to redevelopment in that schedule in no way gives the conservatory the right to redevelop. All it says is that if the conservatory does not redevelop by the year 2010, then the university can get part of the property back. No rights are created. It does not say we have the right to redevelop. The conservatory will have to comply with a city site plan control approval and all of the present zoning bylaws that affect the property. There is no right to redevelop. I must emphasize that.

In regard to the third point about the city easement, this was something we were not aware of. As I have indicated to Ms Foran, subsequent to the passing of the act the conservatory would be perfectly agreeable to entering into an agreement—in fact, we would commit ourselves to entering into an agreement—with the city giving it the right to repair and replace its easement. We have no problem with that whatsoever, but we just were not aware of exactly what that easement was at the time we drafted the schedule.

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Ms Gigantes: Could I ask the witness for the city to point out the sections in the schedule which, to her mind, indicate that the right to develop is inherent in section 15?

Ms Foran: If you start and you look at section 10—"If the conservatory has not previously sold all the property"—that does not come right out and say the conservatory can sell, but it says, "If you don't sell, here's the penalty." I have some difficulty saying that does not create some kind of impetus for the conservatory to sell the land. Otherwise it reverts.

Ms Gigantes: I did not ask about sale. I was asking about the redevelopment.

Ms Foran: Then you go right on to section 11. Again, if you look at the schedule, it is a very difficult agreement. I do not pretend to be an expert on it at one day's notice of this hearing. It is very difficult to say, but if you look at section 11, it states, "For the purpose of section 10 'redevelop' shall mean newly construct, whether above or below grade." As I pointed out to you, if you look at the reference plan, it is one of these strata plans that shows a lot of something going on under grade. Otherwise you do not go and have a survey done of all the land underneath your project.

It involves "at least 25,000 square feet of building on the property"—and that is newly constructed—"or any part thereof, whether in addition to or in substitution for all or part of the existing building provided that if all or any part of such new construction is on the site of the present east wing of the existing building only that area beyond 27,000 square feet" is counted. It is a major redevelopment.

Ms Gigantes: I understand that the proponents of the bill are reading the section to mean that what is being transferred here is a redevelopment right, in so far as the university can transfer it, that touches on these matters.

Ms Foran: That is right. It is a right to develop.

Ms Gigantes: What the proponents are telling us is that there is nothing in this transfer of land that inhibits development of this nature within the transfer agreement. If we establish that, then the proponents go on to tell us that what this section is dealing with is something quite different from the regime of approvals which would have to be followed by either the conservatory or those property owners to whom the conservatory had conveyed property.

Ms Foran: Is that directed to me?

Ms Gigantes: Do you understand what I am saying?

Ms Foran: I think we are quibbling on words.

Ms Gigantes: No, I do not think we are quibbling on words.

Ms Foran: Maybe I am wrong.

Ms Gigantes: I am asking you if you can read section 11 that way.

Ms Foran: No, what I am reading in section 11 is that the university is conveying certain lands to the conservatory. It is not inhibiting, as you say, any rights of the conservatory to redevelop.

Ms Gigantes: In the conveyance.

Ms Foran: That is right. In fact, it is saying: "Here's your impetus to redevelop. If you don't redevelop, we will take back some of the land."

Ms Gigantes: Yes, but the university might transfer land and say, "You can do everything but A, B, and C." Instead, what they have said is, "You can do everything including A, B, and C."

Ms Foran: That is right.

Ms Gigantes: That right is something we are transferring with the transfer of the land, but it does not necessarily imply the second step, which you are indicating to us city council is concerned about, whether city council's planning regulations will then apply subsequently.

Ms Foran: I did not get involved in zoning. I did not get involved in any other permission such as development review or anything like that. At this point, the council is not concerned about that. It will look at that issue of course. The issue here is that in any other case of a severance of this nature, council would know what it is facing. Here there is no indication of exactly what is planned.

Ms Gigantes: I have one further question, if I might, Mr Chair—really two questions. How is it that you can come before us and tell us what council is concerned about and at the same time tell us that you do not even know how the land is zoned? I do not understand. How many times has this been before council?

Ms Foran: It first came before council when we discovered it, some time in April. The bill had been advertised approximately 14 months before. The purpose of having a notice published once a week for four successive weeks in the Ontario Gazette and in the local newspaper is to advise people who might be interested. In this case, if you examine the notice, clearly there was no indication of anything other than the transfer of land and the preservation of the aesthetics. There was no indication that council would have known. Certainly if the council had known or if the notice had alerted staff or anyone to advise council that we had better look into this—

Ms Gigantes: I understand there was a problem there.

Ms Foran: That was the real problem. I think the other thing is that, as you know, there was some indication that the bill would be coming up today but it was only yesterday that the hearing was set. It is very difficult to come down with a whole stack of staff on one day's notice.

Ms Gigantes: How much consideration did council give this? Was there a recommendation from staff which was simply rubber-stamped or was there discussion?

Ms Foran: I could not say offhand. I do not know.

Ms Gigantes: Can you tell me, in your view, how long it would take if we said, for example, we wanted to postpone a decision on this bill until the city of Toronto was satisfied in fact that there was no interference in the regular planning process intended or indeed flowing from this bill? How long would it take, in your estimation?

Ms Foran: I could not hazard a guess on that, because a lot would depend on what information came forward from the conservatory: what the real plans were, how difficult a severance might be, what kind of resolution we could come up with to answer this objection. It is very difficult to estimate.

Ms Gigantes: If there were some attempt by city staff to review the situation to estimate how long it would take, for example, to find out whether it was a simple matter or to find out whether it was going to take another year and a half, how long would it take for the city staff and council to go through the process of assessing how long it might take?

Mr O'Connor: Fourteen months so far.

Ms Gigantes: No, I do not think that—

Mr O'Connor: From the notice.

Ms Foran: No, that is not fair. I think what would have to happen is we would have to have the staff go in and examine the process and examine the zoning. I really hesitate to say. We are faced with summer vacation of council and things and that. It may be six or eight weeks, or two or three months. I cannot force council to do anything.

Ms Gigantes: Yes, but it is not a question of council. Council presumably would then ask staff to review the situation. Three months?

Ms Foran: I am sure it could be accomplished in three months if the information were forthcoming from the applicants.

Ms Gigantes: You mean a complete review in three months?

Ms Foran: No, I think the only issue that council is concerned with at this time is whether it should object to the exemption from section 49 of the Planning Act. Council

was not at this time looking at the zoning issues, the official planner, the development review or anything like that. There is nothing before it to indicate that there is a problem in that respect. It is just a basic lack of information. I think when we first went forward to the council in April we did not have a first reading bill or even a bill that had been submitted to the clerk. We just had a draft. This is the kind of sketchy information we have been working on.

The Chair: Mr Silipo, I think you have some clarification here.

Mr Silipo: I just wanted to add—it might help in the information that Ms Gigantes was seeking—that my understanding is that when this issue went before city council there was no discussion or debate at the council, that there was in fact an approval or a rubber-stamping, to use that phrase, of the staff recommendation.

The other thing is that there are no plans for redevelopment envisaged now or in the future, but certainly if those plans were to develop, I think, as has been stated, the understanding would be that of course it would be subject to all the processes that exist and that the conservatory would feel it would follow.

1050

Mr J. Wilson: Perhaps we could defer this. I only got it yesterday myself. It is long, complicated reading. I sat on the board of governors of the University of Toronto some years ago and I recall some sketches of redevelopment at that time and certainly some discussion surrounding redevelopment of Varsity Arena and the lands and the royal conservatory. That was a wish list that may have died subsequently, but I would like the time to go over this.

I would also like the time to speak with ministry officials about this bill. It is quite a bit lengthier than we normally get and certainly more complicated than most bills that have appeared before this committee, so we should defer. I think Ms Gigantes was trying to solicit from the solicitor a time frame. It would be helpful if the parties could agree on a time frame when we could bring it back to committee.

Mr Ferguson: Mr Chair, before you accept that motion, I would first like to know what that does to the applicant. Is time a factor here? Prior to that motion being moved, my question to the applicant is quite simply, what is the real purpose? We know you want to transfer land, but I think the committee would be interested in knowing why you want to undertake that.

Mr Fraser: The question was why we would like to undertake this now?

Mr Ferguson: Yes, why transfer the land? Why do you want to transfer McMaster Hall to the royal conservatory?

Mr Fraser: McMaster Hall has been, for 25 years or so, the home of the conservatory. It is the head office and it is the largest piece of property occupied by the conservatory. It is essential to the conservatory that the property devolve to it; otherwise it is left with no building and a landless situation. There have been suggestions in the past that some lease arrangement be entered into, etc, but all that has finally been resolved into the university and the conservatory agreeing on the transfer of that property.

The reason it is terribly important to the conservatory to have this matter proceeded with after five years or so of negotiation is that the conservatory right now is in limbo. Agreement has been reached and was reached some time ago by the governing council for the University of Toronto to separate. The faculty association is in agreement, everybody is in agreement and the conservatory just has to get on with its life. It has a lot of reorganization to do as a separate entity, and a delay, as far as I can see, would accomplish no useful purpose and would be very costly and hurtful to the conservatory.

Mr Silipo: If I could add to that, the other concern I would have is that if this is going to be deferred, my respectful request is that the committee should be quite clear about why it is deferring it and what it is deferring for, because I think it would not be useful to leave a lot of ambiguity as to why the deferral. If what is left from the city is an objection about the process not having been followed as it sees it, I think that is one issue, and we have not heard.

It would be useful, for example, for the committee to know if the amendments that have been proposed by the conservatory address the substantive issues the city is objecting to. If the answer to that is yes, then I think the committee could and should proceed with dealing with this bill and hopefully approving this bill today, because I am not sure, if the substantive issues are dealt with, that simply sending people back through the process just for the sake of going through the process, as important as that is, really fulfils any useful need, when in fact there are no new rights being created here that do not exist now.

Mr J. Wilson: I would not mind at all hearing the response from the city solicitor on that question, to deal with the amendments, but there are other questions that come up. For instance, I do not know what the precedent is in taking an affiliated body of the university, giving it now separate status, separating it out from the university, yet retaining all the rights of a university. I have no idea what the precedent is on that. In fact, I have no idea what I am voting on in the schedule. I will be perfectly honest about it, and I bet most of the members in this room do not. We only got the thing yesterday and we have a right and responsibility as legislators to understand the legislation before us. There has been too much rubber-stamping around here in years past, and I do not think the public will stand for it any more. I would certainly be amenable to hearing the solicitor's response on the amendments, but I still would like to defer this for at least one meeting, so we have an opportunity to go through it.

Mr Ferguson: We are not coming back next week.

Mr J. Wilson: That is right, September. I certainly do not mean any harm to the conservatory, but I have some personal background on this. I recall some discussions years ago and I would like some time anyway to make some calls and to investigate the matter further. If it is going to do irreparable harm to the conservatory and you

can prove that to us today, I would be certainly willing to back down on my motion, but grudgingly.

Mr Silipo: I do not want to push this too hard, but we do not have the luxury of being able to come next week, as Mr Ferguson has pointed out.

Mr J. Wilson: No, but an important bill comes to us the day before recess; a historic bill in fact, because we are dealing with historic institutions.

Mr Silipo: We could argue that the bill has been before the House for a little bit of time. I agree it has not been a long time, but it was introduced a few weeks back at least.

Mr J. Wilson: Yes, but there are dozens of bills on there and we do not know which ones the government is going to call forward until the day before.

Mr Silipo: I appreciate what you are saying. I am not trying to argue with that. I just go back to a comment I made at the beginning, that certainly my understanding is that all the parties involved in this are in complete agreement with what is in the bill and, in effect, it has come forward as a result of extensive discussions with all the parties that have any interest or any stake at all in this. On that basis, I would feel quite sure in assuring Mr Wilson that if he were to go back and make his phone calls, he would get those kinds of answers.

Mr Ferguson: I am not in favour of deferring the matter. We are not going to defer the matter so Mr Wilson has the luxury of sitting down and reading the matter over again. The fact of the matter is we got it yesterday; it should have been read by today, however cramped your time is. We are all stretched for time. That is a reality of political life around here. If we deferred everything until everybody had enough time to get everything done, quite frankly, not a lot would get accomplished around this place, so perhaps we should have that question if we going to deal with that motion, whether or not to defer it.

If we are going to defer it, I would suggest we would defer it with some specific instruction, not defer it so people have time to raise their comfort levels on the entire issue. People should have had an opportunity to do that by now. But if we are going to defer, I suggest we should make them go through the process and go back to the city of Toronto so that everybody feels good about the decision. I am not particularly in favour of that move. I think the issue is not as complex as some people would like people to believe.

I would assume the zoning on this land is institutional. If the university today walked into the city of Toronto and asked for a building permit, there is no way the city of Toronto could refuse issuing that building permit. With the transfer of this land from one body to another, if that body at a later date decided to get a building permit to expand the facility for whatever reason, assuming again as institutional zoning, then it would be granted that building permit to expand its facility. I really think that is a red herring that people throw into the argument. The section of the act, I want to suggest to you, applies normally to plans of subdivision where somebody wants to sever a parcel of land. This clearly is not the case. We are not talking about a residential subdivision, for which this portion of the act was intended originally to apply.

1100

The Chair: Okay, in any event, perhaps we can deal with the question. Ms Gigantes.

Ms Gigantes: I think Mr Ferguson's comments are very much to the point, and if we are going to ask that the matter be deferred, we should say what we want it deferred for. For my part, I would like it deferred for an explanation of why section 15 is required. I have great difficulty logically understanding why, in the conveyance of a piece of land, it is necessary to spell out that section 49 of the Planning Act not apply.

There is a deliberate request in this legislation that we ignore section 49 of the Planning Act. I do not understand why and, because we have not had it explained to us and the city has said it would like to know why, even though the whole process creates a whole other layer of confusion in my mind, I think we should have a better understanding before we act. At least, I feel I want a better understanding.

Mr Sutherland: I would like hear from the city solicitor in response to Mr Silipo's comments about whether the amendments deal with the substantive issues.

Ms Foran: Mr Chairman, I take my instructions from the council and I would have to take those amendments back to the council and ask if they meet the city council's concern. There are certainly some very good aspects to the amendments and I would look at them very carefully and explain them to the council.

The other thing I want to point out is that I am not objecting to the process in so far as the notice is concerned. What I am doing is using the notice provision to explain why council did not hear about it sooner or to explain why staff did not hear about it sooner. I think if we had known about it or if we had had more time to work it out, we would not have reached this impasse here today, but I am not objecting to the notice as such.

Mr Silipo: I am just trying to see how to say this. My understanding, Mr Chair, is that in fact these amendments were placed before the city solicitor. The city solicitor chose or decided not to take them to council and in the report to council dealt essentially with the question of process not having been followed. I am not talking here about Ms Foran. That is the information I am given. There are other people who were involved in the process who could speak to that issue if that is something that is of concern to the committee, but I am not sure if that helps.

The Chair: Would you like to comment?

Ms Foran: Yes. That is just not so. City council dealt with this matter on Monday 16 June, I believe, and on Tuesday 17 June the solicitor for the conservatory met with me. The council had already dealt with it. It was the last meeting of the council. They were not going to reopen it.

It is totally wrong to put on the record that the city solicitor did not take these amendments to council. The matter had already been dealt with by council. It would have involved a complex reopening of the item. The motions

were not worked out. I believe I got the motions in some kind of draft form earlier this week, and council is not meeting this week. They met last week. They only meet every three weeks. It is not like the Legislature where you meet every day. They meet every three weeks, so there is no way I could get them back to the council until its next meeting, 8 July or something like that. But if that is the case, I would take them back.

As I say, they do go a long way to meeting the two objections we had. Certainly the undertaking given here today by the conservatory in respect of the easement would have to be brought back to the council, but it does show at least that there has been some serious move to satisfy what council had.

Mr Silipo: Mr Chair, Mr Fraser wanted to address the issue and the question raised by Ms Gigantes, if you would allow that.

The Chair: Yes, okay. Mr Fraser.

Mr Fraser: The issue you raise, Ms Gigantes, is why we cannot go through the section 49 process. One reason is that section 49 has a two-year cap on it, and if we have approval now, that does not address at least two of the rights in the schedule, which may fall in later. There is an easement that could fall in later. If the city redevelops the arena, then an easement can be moved, and that could happen way in the future. Another thing of course is the right of reverter, which could happen up to the year 2010.

The other thing, though, is that there is nothing in this transfer that has any planning aspect to it. That very complicated schedule, each easement of which and each word of which has been debated for at least the last two years, creates rights that are absolutely essential to this bill.

The University of Toronto would not agree to the conservatory being granted McMaster Hall if there is a change in that, so in effect what we would be doing is passing a bill subject to the committee of adjustment's coming along later and saying, "We don't agree with how you're dividing these assets." It is just not workable, in my opinion. Just to emphasize again, the city loses no other control over that piece of property; it is there.

Mr Silipo: Mr Chair, if I could just add one other thing, just picking up on what Mr Fraser said, the deferral does not necessarily make the issue go away as far as this committee's responsibility is concerned, because in effect, if this were to go through the committee of adjustment process and, let's say for the sake of argument, it says that for whatever reasons it does not agree with any part of this transfer that is going on, the issue could easily be back before this committee in terms of dealing with it. While the committee might have more information, it still would not have the issue resolved for it.

The Chair: Mr Wilson, your motion?

Mr J. Wilson: Being a good alumnus of the University of Toronto and now being converted to have faith in the two parties that have negotiated the agreement, I withdraw my motion for deferment.

Mr Miclash: I suggest we put the question.

The Chair: Mr O'Connor moves that section 15 of the act be amended by adding the following subsection:

"(2) The exemption given under subsection (1) does not apply to the transfer of an interest in part or all of McMaster Hall from the conservatory to any other person, other than the university, or to any subsequent transaction made by that person or that person's successors in respect of the interest transferred."

Motion agreed to.

1110

The Chair: Mr O'Connor moves that section 18 of the act be amended by adding the following subsection:

"(3) The exemption given under this section extends only to the interests held by the conservatory or the university in McMaster Hall and not to the interests held by any other person."

Motion agreed to.

Sections 1 to 14, inclusive, agreed to.

Section 15, as amended, agreed to.

Sections 16 and 17 agreed to.

Section 18, as amended, agreed to.

Sections 19 to 22, inclusive, agreed to.

Schedule agreed to.

Preamble agreed to.

Bill ordered to be reported.

TOWNSHIP OF CHANDOS ACT, 1991

Consideration of Bill Pr 77, An Act respecting The Corporation of the Township of Chandos.

The Chair: We will call Bill Pr77, An Act respecting The Corporation of the Township of Chandos. For Hansard, would the sponsor and witness please identify themselves to the committee?

Mr Drainville: It is a pleasure for me to be here before this committee and to be the sponsor of the bill you have before you. My name is Dennis Drainville, member for Victoria-Haliburton, and I would like to introduce the reeve of Chandos township, Neil Rogers, and beside him Dorothy Walke, the clerk-treasurer of Chandos township.

This is an area township which is not in my own riding, but because it is in the riding of a minister of the crown I have been asked to bring this bill to this committee.

I would like to make a couple of very brief comments. As you know, in many situations like this where things are not in our own ridings, we do not have the same kind of background and knowledge, so I am going to defer in a moment to Mr Rogers to ask him to fill in for the committee, but I would like to make a couple of points.

The first is that the two requests for money that are being made of this committee in terms of the movement of this money or the allowing of this money to be used by the township are to go to firefighting and environmental study.

Chandos township is a very small township, with about 500 permanent residents and approximately 3,500 people in the summer. The tax base of the township naturally, under those circumstances, is extremely small. The two areas they wish to spend this money in are absolutely

essential to the future of the township. They have expressed themselves on this publicly.

The Chandos Lake Property Association executive has indicated its support of this, and I think it would probably be helpful, certainly to the people of Chandos township and to the council that has voted in favour of this, for this committee to approve this bill.

On that note, Mr Chair, I would like to pass it over to Neil Rogers, the reeve of Chandos township.

Mr Rogers: Thank you, Mr Chairman, and thank you, Mr Drainville, for the presentation. I would just like to reiterate what Mr Drainville has said. We are a small municipality. We are unique perhaps in one respect: within the municipality we have no major commercial centre, no major village. We do have a hamlet of one small general store with a gas pump.

We regard ourselves as a very progressive municipality. I think we have a number of firsts. On 1 July 1988, we were the first rural municipality with four dumps, if I may use that term, four waste sites to institute a recycling program with the help of the Ontario government through the Ministry of Natural Resources. We are part of Peterborough county and were also, I think, partly responsible for encouraging Peterborough county to get on line on a recycling program, which is now under way.

More recently, we passed what I believe is the first bylaw in Ontario restricting the removal of trees from the 66 feet of shoreline road allowance. We had this bill in preparation when the ministry came along last year, and because Chandos Lake is a prime trout lake—it is a very deep lake, up to 150 feet deep in its deepest places—the Ministry of the Environment and the Ministry of Natural Resources are very jealous of the ecology of that lake and had imposed some restrictions on that. When we showed them our bill, which was really just ready for council to approve, they took it and studied it and endorsed it. Indeed, we feel it is a model bylaw. So without belabouring the point, we feel we are a progressive municipality.

One of the other points Mr Drainville addressed was the issue of fire protection. In 1985, we had the fire service adviser, Bill Wilson, do a study of the township. He operates out of Peterborough and works, or did at that time, for the Solicitor General's department in the matter of the fire marshal's office. The recommendation of that study was that we start our own fire department. He had one concern, and that was whether we would have enough volunteers in a small municipality to staff the department.

Three years ago this coming February, we had a meeting of residents and we indeed found that we had adequate people. We had 40 people indicate they would be prepared to serve. We have since that time established a fire department. We have four units, and incidentally, Mr Wilson's study indicated that the cost in 1985 would perhaps be $300,000. We now have four units in operation, including a brand-new, multipurpose, four-wheel-drive, rapid response vehicle, equipped both for firefighting and for rescue, including the jaws of life. We have a fully trained group, fully integrated into the Peterborough county mutual aid system, so we are pretty happy about the progress we have made.

We are primarily a recreational township; indeed page 2 of our official plan points that out that the main reason or purpose in Chandos township is recreation. I guess the other thing is, the moneys in this account come from severance of lots, waterfront lots, by way of a lot levy and cash in lieu, and also from the sale of the 66-foot shoreline road allowance.

Relative to the size of our municipality, that funding is considerably in excess of what some other municipalities would have. Municipalities certainly are very diverse, Mr Chairman, and we are basically bush country.

I do have some things here that I could show the committee, if that is appropriate or if the committee would like to see them. Indeed I have a short video of the nature of our township, if that would be helpful to the committee. But in any event, the nature of our community is recreational. Our main business is tourism, cottagers, and as a result of that, we are asking that some of the money, which in our view is in excess of what we need for recreational purposes—we do have a small community centre and some of the money has been spent for that for playground equipment, etc. Rather than belabour the point, if anyone would like to see them I do have some visuals about the nature of our community. We are asking for that money for the two purposes, as Mr Drainville has outlined.

1120

The Chair: I will leave it up to the committee.

Mr Ferguson: The Chair has been there. I will take his word for it.

Mr Miclash: Is the objector present? Will we be hearing from the objector?

The Chair: Yes, we will.

Mr Sutherland: I did not want to see the video. I just wanted to get a better sense—my geography of eastern Ontario is very poor and I noticed in the letter it says Bancroft Times. I am just trying to get a better picture of where the township of Chandos really is.

Mr Rogers: We are about 90 kilometres northeast of the city of Peterborough, halfway between the city of Peterborough and the village of Bancroft.

Mr Sutherland: So in beautiful country, no doubt.

Mr Ferguson: I have a short question. Is there anybody here from the Ministry of the Environment or the Ministry of Consumer and Commercial Relations?

The Chair: No. Mrs Carlos, would you please come forward as an objector?

Mrs Carlos: My name is Patricia Carlos. I want to thank you for allowing me to be heard today in respect to the decision by the council of the municipality of Chandos to divert funding from the restricted 66-foot right-of-way fund for protecting for parks and recreation under the Municipal Act. This division of funds is a serious matter and indeed affects many facets of the government. The question is, how critical is the need for the diversion of this funding to (a) a lake capacity study, (b) the building of a firehall?

Before I get into this, I would like to address some inaccuracies in the compendium that was supplied by the

Chandos municipality. If you will look at the second page, third paragraph, in addition to the three small marinas and the general store, there is another marina located on Highway 504, rental cottages with the mini-golf course, a nine-hole golf course, a trailer campground, a Christian camp, what was a lodge now selling time-sharing and other rental cottages, not to mention numerous small businesses like plumbing, carpentry, road construction and professional people like writers and artists. There are farms and there are small cottage industry craftsmen who work out of the community and sell their wares at various fairs. So there is an amount of economic progress being made in the township.

In the fourth paragraph, it appears the needs of permanent residents has been omitted. Families with children attend schools, play hockey and figure-skate in the adjacent township facilities. As for the seasonal residents, it is true that out of the 775 members in the lake association, each member represents one family. I would not be far off to say that the regatta, which is prepared yearly by the lake association, attracts about 300 people, the corner wiener roast about 150 people—and this includes whole families—and they have a small sailing club on Chandos Lake. These facilities have not been expanded to other areas through the years. I agree that seasonal residents have limited time for other affiliations and family and friends.

I had previously stated my reasons for opposition to this bill. They were due to a lack of consideration for other recreational facilities, such as hiking and biking trails or snowmobile trails and a tennis court. This fund could also be used to offset the cost of maintaining our community centre. The rental fee is constantly going up in this community centre. To people living in Toronto $70 does not seem a lot today, but it definitely is to the people who live in that community. This can be reduced from the funding in that fund. These facilities are used for yearly family gatherings.

As well, I would like to address the position of the firehall, which would be redundant upon restructuring but is being looked at again. This is one thing I objected to, the positioning of the firehall. Just recently, the fire marshal's office has been engaged in doing the studying on this.

I would like to do a little bit of history here. In 1974, the past reeve, Bill Domm, appeared to be active in supporting an arena in Burleigh-Anstruther. In the 1975 Chandos yearbook, Mr Domm says: "It is my intention in 1975 and 1976 to explore other ways of making more recreational facilities available to the young people of Chandos township. Our township is literally void of facilities and something must be done to remedy the situation." Obviously, grants were found that resulted in the building of the Burleigh-Anstruther arena and community centre.

Three years ago, when our present council came on, Chandos township opted out of financial support for this same arena. The restricted parks and recreation fund has increased from $68,949 in 1989 to $124,546 in 1990, largely due to the increase in fees and the tremendous push in sales that year and no doubt due to the lack of a support fund for this particular arena, which the children enjoy.

When Chandos township started a fire department in 1989, our council overspent and we experienced a deficit of $82,000 plus. In 1990, municipal taxes increased by 51% in order to recover the shortfall and pay for capital purchases of such things as computers and fire equipment. Obviously, this increase in taxes did not affect seasonal residents, who are in a socioeconomic level of $60,000 to $100,000. There are some millionaires as well. But the 352—and today I heard 500 mentioned—permanent residents, working people with families and retired people, are feeling the impact.

One of my thoughts on this was that if we do restructure somewhere down the road, the original positioning of the firehall was going to be redundant, and that was one of my big problems.

However, even if restructuring were to take place in the next five to 10 years, a firehall, strategically placed in an eastern location, is a necessary evil in Chandos. Since we have seen no costing for a two-bay firehall as yet, we can only assume at this time that it would go anywhere between $70,000 and $100,000.

Chandos council is not a barebones council. We have computers, sophisticated phone systems, a fax machine and a laser printer. We have 1,310 home owners and we have expensive fire protection equipment.

We probably will afford a most modern and up-to-date facility for a firehall. If a firehall is built without the $85,000 funding, it will create additional hardships to taxpayers. The cost of this is not included in the present budget. It is election year, is it not? Therefore, I shall agree to the use of the money for the building of the firehall only, and only if it is strategically placed.

As for the lake capacity study, this needs to be shelved. The lake capacity study is to cost us $27,500. We cannot afford it. A bylaw made by the township council can require a developer or a citizen to have an individual lake capacity study done should the council deem it necessary. Let this be so.

1130

Mr Sutherland: I want to ask a couple of questions to both parties here, but first to Mrs Carlos. You mentioned that you thought in the compendium attached that the number of permanent residents was understated and the activities understated. It seem to me, though, that if there are more people there, there is more justification for having some type of fire service.

In terms of your other question, you mentioned there was not a tennis court and that might be one option that could deal with the reserve fund in terms of balancing off a community's needs with having some recreational facilities and then enhancing those recreational facilities versus having fire protection. I was wondering if you could comment on those two issues.

Mrs Carlos: I am sorry. Could you repeat the question?

Mr Sutherland: You have indicated that they have understated the number of activities and people and businesses in the community.

Mrs Carlos: That is true.

Mr Sutherland: So if there is more there than what they have stated, does that not lead you to believe there is an even greater need for this fire protection? Number two, in your comments you indicated that while there are certain recreational facilities, there could be a need to enhance them. How do you reconcile enhancing recreational facilities with the provision of basic fire service?

Mrs Carlos: The basic fire service is fine. I do not object to the $85,000 towards the firehall because that is something that needs to be done. We have fire equipment; it needs to be housed. There is $125,000 sitting in that account, probably more by now. I agree with freezing it and using it for the firehall and the rest of it to be towards enhanced recreational facilities. As I said too, we have an arena that has not been supported by this township but is being used by members of the community. I do not know what our costs were in the past to support that arena, but obviously the buildup of the funds has occurred because of lack of supporting it. I am not objecting to the fact that we have $85,000 to be put towards a firehall. What I am saying is that the lake capacity study needs to be shelved because indeed the firehall may run up to $100,000. The lake capacity would then be another $27,000 and we are now into figures that we have not accounted for in our budget this year and therefore will have to be pushed on to another situation next year.

Mr Sutherland: I have just one more, back to the officials from the township. Could you give us some indication of what the regular maintenance budget and upkeep budget would be for the community centre, and does that come out of the general budget fund or out of this reserve fund?

Mr Rogers: My understanding is that the legislation does not permit the use of that fund for that specific purpose. It is for capital primarily. The actual amount budgeted—it is a very small community centre. It was a one-room schoolhouse that was added on—Dorothy, was it 15 or 20 years ago?

Ms Walke: It is not that long ago. About 10.

Mr Rogers: Ten years ago. Ten to 15 years ago there was an addition put on. That was done because of the nature of the community in Glen Alda. It was one of the original communities that dates well back and many of the local residents had used the school as a meeting centre and so on. The council of the day did enhance that facility. We put in playground equipment. I think we spent $13,000, and I believe that was in 1990. Some of that came from grant money from the province. The rest came out of the fund. So there has been money taken from the fund for repair of the community centre, which is a legitimate use of the fund moneys. What is the actual amount of the budget, Dorothy?

Ms Walke: It would be around $5,000 yearly.

Mr Rogers: That is a net figure. I think we run between $13,000 and $15,000 a year, if my memory serves me correctly, and I think there is a net deficit of about $5,000.

Mr Sutherland: Great. That helps. Thank you.

Mr Ferguson: First of all, the Ministry of Municipal Affairs has no objection to the bill. Just as a friendly reminder, Mr Chair, we are not here to debate the municipality's budget or the municipality's past decisions. The municipality will be held accountable to the electorate for that. We are here to debate and decide upon the propriety of the bill as it relates to the municipality and whether or not we think the municipality is responsible enough to administer the funds that have been suggested today.

Mr Miclash: Mr Chair, might I ask that we call the question, please?

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

The Chair: Thank you for attending.

TOWN OF OAKVILLE ACT, 1991

Consideration of Bill Pr82, An Act respecting the Town of Oakville.

The Chair: Mr Carr, would you please introduce yourself as sponsor and the witnesses for Hansard.

Mr Carr: My name is Gary Carr, MPP for Oakville South, and with me today I have the town solicitor on my far left, Douglas Gates, and the assistant town solicitor, Beatrice Howell. Mr Gates will explain a little bit about the bill.

Mr Gates: This bill is to extend and assist Oakville in protecting its heritage, in particular heritage buildings. The effect of the bill is to allow and extend the protection provided by the Ontario Heritage Act. It will not allow the demolition of a previously designated building until there are some very definite plans and approvals in place for something to take its place.

The bill is identical to the bill that the town of Markham succeeded in having passed by the Legislature, either late in 1990 or early in 1991, and similar to one passed previously. I think it was eventually a government-sponsored bill for the city of London. We welcome the opportunity of supporting this bill before you today and hope you will give us every consideration.

Mr O'Connor: Thank you for coming today. I believe there was an objector to this. I am just wondering if they had received notice to come as a witness today.

Mr Gates: My understanding in speaking to Mr Decker was that there had been no objector.

Mr O'Connor: None at all?

Mr Gates: No.

Mr O'Connor: Had the notice then been put out to the community?

Mr Gates: The notice has been published in accordance with the requirements four consecutive times in the local newspaper. The last date of the notice occurred on 14 June, and it is completely in accordance with the rules, as I understand them, for private bills.

Mr O'Connor: So the particular developer is aware of this.

Mr Gates: This protection will extend to more than one property, but there is one particular property that is of concern at the moment in Oakville. The actual bill has been handed by myself to the spouse of the owner. That occurred earlier in June.

Mr Sutherland: If I can just pick up on that, did the developer know that the bill was being addressed today here before this committee?

1140

Mr Gates: No, sir. We made every effort to try to advise them yesterday of its coming forward today. The owner, so far as I am aware, has not written the clerk in accordance with the advertising. As I say, the advertising is over by some 10 days and the owner was definitely aware of the legislation.

Mr Ferguson: The Ministry of Municipal Affairs does not have any difficulty in supporting this bill. As you know, we supported bills previous to this. But given the history of this and given that it is as a result of a potential action by a specific developer, one of the main concerns is that the developer is not aware this meeting is taking place today, despite what the legislation says about giving public notice. I think you are well aware, sir, that people read that and know their interests may not be affected at all and are not aware.

You have until 18 October. I know the clock is running, but this committee will be meeting before 18 October and we can ensure that we meet, perhaps the first week the House comes back. I move that we defer this matter and that we ask the clerk to be in touch with the municipality so that this individual—we have to appear to be fair here—can at least appear before the committee if he or she so desires.

If you have been advertising for four weeks, it would appear, I think, to any reasonably minded individual that the city has not made reasonable attempts to contact the person by stating to this committee, "We tried to get hold of him yesterday," when the hearing is today. Although I certainly support it in principle, I think we have to appear to go beyond the balance of fairness in dealing with the matter. In any event, you do have until 18 October. Is that correct?

Mr Gates: Yes, we do. Perhaps I might be permitted to respond. The advertising first appeared in the Oakville paper on 14 May. I personally handed the draft of the legislation to the spouse. It is a numbered company that owns it. A lady is the president and her spouse, with whom we have been negotiating, is the person I handed the legislation to on 12 June.

We in Oakville are really concerned about this particular property. I would say it is the most significant property in Oakville that is not in public hands. It was built about 1850 and it is not a private residence; it is a commercial property. We have done studies on the property and the municipality would very much like to purchase the property. To purchase the property for the municipality would be about $1.5 million, which represents a tax increase to the residents of about 5% in a given year. We really find that we need to plan somewhat in advance to take on such a large obligation as that.

There is no animosity between us and the owner at the present moment. We are discussing the issues with the owner with a view to trying to resolve things, but we are very concerned that when the House comes back in the fall the priorities may be slightly different. If they are just slightly different or the act does not get proclaimed, then we are very concerned that this protection will not follow.

Mr Ferguson: I have just been given some further information and I understand that in fact notice was delivered back in May and that the developer at that time could have objected to the clerk. We have received nothing at this point, so I am not going to move any deferral. I will be supporting the bill.

Mr Miclash: I have to agree with that too. If the proponents have gone through all the red tape so far and the notices have been put forth, and as you say, he has personally delivered the notice, I see no problem in going forth with this today. I would like to call the vote at this time, if nobody else has any comments.

Sections 1 to 10, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

The Chair: Thank you for attending. Meeting dismissed.

The committee adjourned at 1146.

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Substutution: Gigantes, Evelyn (Ottawa Centre NDP) for Mr Abel

Clerk: Decker, Todd

Staff:
Hopkins, Laura, Legislative Counsel
Mifsud, Lucinda, Legislative Counsel

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Wednesday 16 October 1991

Standing committee on regulations and private bills

Organization

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Première session, 35e législature

Journal des débats (Hansard)

Le mercredi 16 octobre 1991

Comité permanent des règlements et des projets de loi d'intérêt privé

Organisation

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Clerk: Todd Decker

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 16 October 1991

The committee met at 1007 in committee room 1.

ELECTION OF CHAIR AND VICE-CHAIR

Clerk of the Committee: Honourable members, it is my duty to call upon you to elect a Chair of the committee.

Mr Hansen: I nominate Drummond White.

Clerk of the Committee: Are there any further nominations? If not, I declare nominations closed and Mr White elected Chair of the committee.

The Chair: I now call for nominations for the position of Vice-Chair.

Mr Ruprecht: I nominate Mr Frank Miclash.

Mr Hayes: I nominate Ellen MacKinnon.

The Chair: Those in favour of Mr Miclash, please indicate.

Mr Ruprecht: I think Mr Miclash is a wonderful person. Mr Chairman, did you want speeches now or not?

The Chair: I do not think they are really necessary.

Mr Ruprecht: All right. Then I decline.

Mr Miclash: I feel like I am in a setup, actually.

The Chair: Is that a withdrawal, Mr Miclash.

Mr Miclash: No, it is not. I will stand.

Mr Ruprecht: I withdraw my remarks about Mr Miclash.

The Chair: All in favour of Mr Miclash, please indicate.

Mr Miclash: Can I vote for myself?

The Chair: Indeed. All in favour of Mrs MacKinnon as Vice-Chair? Mrs MacKinnon has received a majority of four to three. Mrs MacKinnon is elected Vice-Chair.

DRAFT REPORT ON 1989 REGULATIONS

The Chair: We have circulated the draft report on 1989 regulations, which I am sure no one has had time to consider in any depth. Mr Fenson would like to speak on that report.

Mr Fenson: Of the 727 regulations made for 1989, 13 have been reported. It is a smaller percentage than has been usual in the past. The violations have been against three of the nine guidelines, the three which come up in most reports. They are cases of regulations not being made in precise, non-ambiguous language, of regulations having retrospective effect without the retrospectivity being authorized by the statute or of regulations not being made in strict accord with the statute conferring power.

In the past it has been the custom of the committee to look at the report, ask questions, give instructions as to changes and then, when it is satisfied, table it. I have usually not had very much to explain in the past, but I will be glad to answer any questions you may have now or at a future meeting. I have also, as I usually do, provided the clerk with copies of the entire correspondence involved in the making of this report. Any regulation that is mentioned here was the subject of a letter that I wrote to the legal department of the ministry concerned, and in all cases but one I got written responses about the regulations I made inquiries about. All the letters to and from the ministries are available to you. The clerk will be happy to give you sets if you would like to look at those. They will also give you an idea of the kinds of explanations that seem to clear away problems I thought there may have been with some regulations. Regulations do sometimes get looked at by the courts and I think we are increasingly going to see regulations or parts of regulations attacked on constitutional grounds.

So far—at least in the past few years—no regulations have been cited in the report on constitutional grounds, though in the correspondence you will find at least one where I raised constitutional questions that may interest the committee. But in the end I am recommending only 13 for reporting. When the committee has had a chance to look at the report, I will return and answer any questions you may have.

Mr J. Wilson: I was just wondering why they were brought forward. Are the 13 you have recommended for a report particularly interesting cases?

Mr Fenson: I did not choose them because they were important points of law. I chose them because they violated, sometimes in some technical way and sometimes in some substantive way, the guidelines. They are not always stirring issues. One regulation which I did not report but which I queried on constitutional grounds had to do with rules concerning behaviour of people visiting provincial parks. There is a regulation which said they may not behave in any way which would attract crowds, may not assemble and may not make political statements. I raised that as a possible violation of certain freedoms guaranteed in the charter. As it happens, I do not think there are any real stirring issues in any of the regulations reported.

Mr J. Wilson: If, for instance, you had a very strong belief that there was a regulation passed that was unconstitutional or could be deemed unconstitutional, albeit the intention was good, what recourse would you have?

Mr Fenson: I would make an inquiry of the ministry. If I were satisfied that there was an outstanding issue, I would recommend that the committee report it as not being in strict accord with the statute conferring power. But I should say that the standing orders empowering this committee to report regulations says that the opinions of the committee are not supposed to deal with the merits of the policy or the objectives to be affected by the regulation but simply with whether they violate the nine listed guidelines in standing order 104. In the course of reading the year's regulations, I am struck by many interesting issues which simply do not come under the jurisdiction of the committee.

Mr J. Wilson: Who looks after those things then? Does the Attorney General's office do a review?

Mr Fenson: Before they are made, regulations go through the cabinet committee on regulations. I imagine those issues are dealt with either at the stage where the ministry itself is initially making the regulation or at the cabinet committee. Those matters are dealt with and resolved before the regulation is made. This committee has no jurisdiction over regulations until the regulations are actually made and in effect.

I look only at regulations that have already been published in the Ontario Gazette and have been through ministries' legal departments, the cabinet regulations committee and, furthermore, the scrutiny of the registrar of regulations, which is part of the office of legislative counsel and which also checks the regulations, I presume, against the guidelines that govern this committee. In effect, what this committee is doing is a second check of legislative counsel's work.

Legislative counsel has always been been quite cordial and co-operative, considering there has not been a year when the committee has not reported regulations. The policy issues are really not under the purview of the committee and the regulation is already engraved in stone by the time the committee is looking at it. What the committee can do is simply report its view to the House that the regulation violates one of the guidelines.

Mr J. Wilson: Out of curiosity, why are we doing 1989 regulations in 1991?

Mr Fenson: This committee used to hire outside counsel. The counsel work for the committee with regard to the regulations was recently given to the legislative research office. We are just picking it up and catching up. I expect to give the committee a draft report on the 1990 regulations later in the fall, and by spring I expect to have brought us up to the end of 1991.

The Chair: Any further questions of Mr Fenson? Hearing none, thank you, Mr Fenson.

CITY OF TORONTO ACT, 1990

The Chair: The Clerk has received a letter from the city of Toronto requesting that Bill Pr1, An Act respecting the City of Toronto, be withdrawn. Is it the pleasure of the committee that I report to the House the committee's recommendation that the bill not be reported, it having been withdrawn by the applicant?

Mr Ruprecht: I have a brief question. Do you know why this has been withdrawn? What is the reason for it?

The Chair: The Clerk and I were chatting about that. Apparently this has been a regular practice of the city of Toronto.

Clerk of the Committee: Bill Pr1 had to do with leghold traps. Apparently some changes were made in government regulation that have satisfied the city of Toronto that it no longer requires specific authority to regulate the use of leghold traps.

Mr Ruprecht: Can you tell me when they came before this committee to request this legislation be passed?

Clerk of the Committee: The letter requesting that the bill be withdrawn was received after the House went into the summer adjournment. This is the first opportunity to bring the city's request forward to the committee. If you require it, the committee could request that witnesses from the city come before the committee at a subsequent meeting to explain the request. I did not ask them to come because I assumed the committee would have no problem with withdrawing the bill.

The Chair: The city solicitor offered to appear before the committee for that purpose, if necessary.

Mr Ruprecht: No, that is not necessary. I was not sure that Bill Pr1 was concerned with leghold traps. I thought Pr1 was giving the city extra power to eliminate weeds from boulevards next to highways. That is what made me think about this. Do we have this before us right now or is this just a request that came to you verbally?

Clerk of the Committee: The bill was introduced and referred to the committee. I am not sure of the exact date it was introduced. It received first reading and was referred to the committee but has never been dealt with since its introduction. I believe the city does have another application regarding weeds on boulevards, but it is not Pr1.

The Chair: There was a bill that I believe Mr Marchese presented, a city of Toronto bill as well, just a couple of days ago for first reading.

Mr J. Wilson: It would not be Pr1. We are well down the list now.

Clerk of the Committee: Pr80 is a city of Toronto bill regarding weeds on boulevards which was introduced by Mr Marchese a few days ago.

The Chair: That is the one we were talking about then.

Any further discussion on that withdrawal request? Is it the pleasure of the committee that the bill be not reported?

Agreed to.

The Chair: The clerk informs me that we have some other business, again private bills, that could be dealt with in two weeks.

Clerk of the Committee: At this point there are not enough bills ready to proceed before the committee to justify meeting next week. If it meets with the committee's satisfaction, I will try to schedule a number of bills for two weeks from today.

The Chair: Agreed.

The committee adjourned at 1020.

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Substitution: Hayes, Pat (Essex-Kent NDP) for Mr Fletcher

Clerk: Decker, Todd

Staff: Fenson, Avrum, Research Officer, Legislative Research Service

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First Session, 35th Parliament

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Wednesday 30 October 1991

Standing committee on regulations and private bills

Chair: Drummond White
Clerk: Todd Decker

Assemblée législative de l'Ontario

Première session, 35e législature

Journal des débats (Hansard)

Le mercredi 30 octobre 1991

Comité permanent des règlements et des projets de loi d'intérêt privé

Président : Drummond White
Greffier : Todd Decker

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The committee met at 1003 in committee room 1.

CITY OF NORTH YORK ACT, 1991

Consideration of Bill Pr62, An Act respecting the City of North York.

The Chair: I would like to call this meeting of the standing committee on regulations and private bills to order, it being 10 of the clock. We have before us an agenda which includes Bills Pr62, An Act respecting the City of North York and Pr68, An Act respecting the Armenian Community Centre of Cambridge. We also have to deal with the issue of waiving of fees and our budget for the next year.

First on the agenda is Bill Pr62, An Act respecting the City of North York, sponsored by Mr Mammoliti. Is Mr Mammoliti present? Would you like to come forth, Mr Mammoliti, and introduce the applicants on this bill?

Mr Mammoliti: Thank you, Mr Chair, it is nice to see a full group here. I would like to introduce but I would like to say a couple of words first, if that is possible.

The Chair: Typically you would introduce the applicants and then speak.

Mr Mammoliti: Okay. I would like to introduce Sonia Light, a solicitor for the city of North York, and George Dixon, also a solicitor for the city of North York.

I am going to hand over to George in a minute, but I would like to say that in the city of North York we certainly have had a number of problems in reference to debris from construction that goes on in particular areas and the debris that is left over, either during the construction period or after, and how it blows around and carries and goes to the different homes or different buildings or roads. It looks terrible sometimes, and we have had a number of complaints through my office and through other offices. I know that Anthony Perruzza, my colleague, has certainly received a number of complaints in the past, both in his job as MPP and when he was the councillor in that particular area.

When I was asked to sponsor this particular bill, I jumped at the opportunity, because I feel strongly about giving the city of North York the opportunity to deal with this, and to deal with it through bylaws. That is what this bill is all about, dealing with this particular problem and allowing the city of North York to do that.

I will leave it at that and pass it over to George, who wants to explain in a little more detail.

Mr Dixon: I think the bill largely speaks for itself. There are two principal thrusts. The first is to give the city of North York authority that it does not presently have to require the owner of a construction site to fence that site while a construction project is taking place. The reason for that request does relate to this issue of debris, and trying to contain construction clutter within its own site.

As you probably know, the city of North York is largely developed, and there has been a phenomenon in recent years of so-called in-fill housing. In the more extreme cases, I guess, it has been referred to as monster housing. That is quite disruptive in established areas, and this authority to fence would give the city an opportunity to require modest fencing around construction sites to contain debris.

The second main thrust, also dealt with in the explanatory note, is also a power the city does not now have, which is to require the owner of the property on which the project is taking place to clean up any debris that emanates from his site on to either neighbouring private properties or public property or public roads.

Those are the essential reasons for North York seeking this legislation. I would be happy to answer any questions you might have.

The Chair: Thank you, Mr Dixon. Mr Drainville, do you have any comments from the ministry?

Mr Drainville: I am glad to be here for the first time as parliamentary assistant. Thank you, Mr Chair, for having me come here before your committee.

The ministry has recommended that no objections be made to the bill, that Toronto certainly has moved in this direction and it seems there are gaps in various pieces of legislation that would make this quite a helpful piece, so our ministry finds no objection.

The Chair: Are there any questions from committee members?

Mr Sutherland: It seems to me that we had a bill either exactly like this or very similar come past this committee within the last six or seven months. I do not think it was exactly the same, but it covered similar areas, and I am just wondering whether it was the city of North York that came forward with it or whether it was someone else, and since it was similar, should any of that have been incorporated in this one to save the time of coming through twice?

The Chair: The clerk informs me it was the city of Toronto.

Ms Gray: Yes, it was the city of Toronto. In the spring of this year the bill was slightly different in that the city of Toronto's request was simply related to the cleanup of debris and did not involve the fencing aspect that North York has now asked for. So this is something a little bit further.

1010

Mr Hansen: Is the deposit going to be a proportional amount to the cost of construction? When I take a look at this, if it is a $100 deposit and the cost of removal is $500, the cost will still be borne by the corporation. Could you explain a little about that?

Mr Dixon: The city's intention, I think, would be to base the deposit on a frontage rate, basically on the lot size. I

think typically that would roughly relate to the value of the construction. Obviously a large site would accommodate a larger, more expensive building.

Mr Hansen: Maybe it is a little more in-depth than the bill is here. The other thing is that I have seen in my particular area, in subdivisions, it is great that you clean up your own site, but what happens if it is put on another site that is owned by another corporation next door? These are some areas to think about when you go back to your council, some areas you should address that are not in this bill, to the effect: "Where did the refuse go from the building sites? Did it go to a dump or did it go to adjacent lands in the municipality?"

The Chair: Sorry, was that a question or a hypothetical question?

Mr Hansen: A comment.

Mr Dixon: Received.

Mrs MacKinnon: Obviously, I have got something rather mixed up. I am wondering why the municipality does not have bylaws to cover this.

Mr Dixon: The Municipal Act does not permit us to pass a bylaw to do these things. That is why we are here. We are seeking authority from the province in the form of this bill to enable us to pass bylaws to accomplish these results.

The Chair: Any further questions? Are there any other parties who are concerned in regard to this bill?

Mr Ruprecht: Mr Mammoliti is here supporting this, I assume, wholeheartedly.

Mr Mammoliti: Wholeheartedly.

Mr Ruprecht: That would be good enough for us, or for me certainly, to give my full support to this bill.

The Chair: I am sure Mr Mammoliti feels encouraged by that vote on your part.

Mr Mammoliti: Is that all it takes?

Sections 1 to 5, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

ARMENIAN COMMUNITY CENTRE OF CAMBRIDGE ACT, 1991

Consideration of Bill Pr68, An Act respecting the Armenian Community Centre of Cambridge.

The Chair: We have now to consider Bill Pr68, An Act respecting the Armenian Community Centre of Cambridge. The bill is sponsored by Mr Farnan. Mr Farnan, would you introduce your colleague.

Mr Farnan: Vrej Kassamanian is a director of the Armenian Community Centre of Cambridge. This centre is renowned in our community for its wonderful civic involvement and support.

If I could also direct you to the compendium accompanying the bill, I will go through that with you. The bill is necessary to give effect to minutes of settlement to finalize a legal dispute between the Armenian Community Centre of Cambridge and the corporation of the city of Cambridge, which minutes have been approved by both parties and pursuant to which the corporation of the city of Cambridge has agreed that it does not object to the lands and premises owned by the Armenian community centre being exempted from municipal taxation.

There were some constraints initially placed on the Armenian community centre which, in retrospect, were viewed to be too tight in terms of other developments in the same area. There was a fairly lengthy dialogue between the city and the Armenian centre. With mutual respect, this agreement was reached and it is one that draws closure to that phase.

The Armenian Community Centre of Cambridge is an incorporated charitable institution which makes its buildings and land available, exclusively for charitable purposes, to the public and the city of Cambridge for use to assist the people of the city. The exemption for taxation which this bill would authorize will put the Armenian Community Centre of Cambridge in the same category as some other similar organizations operating in Cambridge and throughout the province.

In addition, a portion of the building will be available for religious use for those persons who wish to utilize it in this way. This of course is a recognition of a concession that was given to other community groups that entered the international village concept some time after the community centre. With new rules for the other groups coming in, this brings the Armenian community centre, which had been there previously and had negotiated a different set of rules, back into line with the other groups. Exemptions from taxation would also be consistent with this aspect of the use of the land and buildings.

The Chair: Do you have any further comments, Mr Kassamanian?

Mr Kassamanian: Mike said it all.

The Chair: Any questions from committee members?

Mr Ruprecht: Mr Farnan is in support of this and he argues this case well. Let me say something about this bill that should concern all of us. I wholeheartedly support the Armenian Community Centre of Cambridge. In fact, being the former minister of multiculturalism for the province, I have some idea that organizations and community centres of this type, which not only serve the local Armenian group but open their doors to others in the community, ought to be tax exempt.

Having said that, though, I think it is incumbent upon us in this committee to make a recommendation to the government. While I said earlier that I will support this, obviously what we need here is some guidance, in terms of new legislation which is clear and specific, as to what kinds of organizations, groups and community centres we would umbrellaize. Do we now open up our doors and say community centres of type A, B and C could all be exempt?

The reason I say this is because I have been sitting here for a number of years and I know there are at least five such centres in the city of Toronto alone which have claimed and received status of this kind. Every time a new community centre comes to this committee and to the Legislature for approval, we find ourselves with the same arguments; namely, what specifically should be designed or produced in terms of law that could allow other centres not to pay municipal taxes.

While I support this bill, I say to the committee that we should, either later or now, make a recommendation to this government that would then give us specific details as to what kinds of centres could claim a tax reduction or deduction or exemption that would cover every such centre.

1020

Mr Hansen: I have to agree with my friend opposite on that particular area too, because of the point that the Armenian community has had to come here to spend time and money to apply for something that should justly be theirs. In St Catharines the Armenian community put in a new hall which was opened just last year. They have the status of not paying tax in St Catharines, so I endorse this particular bill as it is here.

The Chair: I think your suggestions are probably well founded. Perhaps we could set that for discussion at some later time, perhaps at our next meeting, and certainly secure advice in the meantime as to the mechanism that could be used.

Any further discussion? Are there any people here interested in this bill? Hearing none, could I ask the parliamentary assistant if he has any advice on this bill?

Mr Drainville: Very simply, we have no objections at this time. We thought there might have been other interests involved here. Communications have been made with the region and with the school board indicating that this was happening. Everything seems clear, there are no objections and therefore there are no objections on the part of the government.

Mr Farnan: The Armenian centre is not aware of any opposition to the bill and neither have I been made aware of any opposition.

Sections 1 to 6, inclusive, agreed to.

Preamble agreed to.

Fee-waiving motion agreed to.

Bill ordered to be reported.

The Chair: Thank you very much, Mr Kassamanian and Mr Farnan.

RESTOULE SNOWMOBILE CLUB ACT, 1990

The Chair: We have before us a couple of other items. First is a request with regard to Bill Pr9, An Act to revive the Restoule Snowmobile Club. The fees with regard to this charter application were not waived. The understanding is that had an application been made for those fees to be waived, that would have occurred. Do we have any discussion on this or any motions on this request for a waiving of those fees?

Mr Ruprecht: This is just a local snowmobile club, right? Do I understand this correctly? This has no implications for a broader issue of including other snowmobile clubs, an indication of what we could be in for in the future? This is strictly local, is it? There are no other implications here?

The Chair: Each and every application will be considered on a case-by-case basis. This particular club does offer driver training, etc, where others may not.

Mr Sutherland moves support of the recommendation to waive the fees for the Restoule Snowmobile Club.

Motion agreed to.

COMMITTEE BUDGET

The Chair: You have the 1991-92 budget preparations before you. Any discussion on the budget? Mr Farnan moves adoption of the budget.

Motion agreed to.

The Chair: Is there any other pressing business at the moment?

CITY OF TORONTO ACT, 1990

Clerk of the Committee: I just want to raise an issue with the committee. At our last meeting there was a request from the city of Toronto for withdrawal of one of its bills. At the time I indicated it was a bill to do with leghold traps. That was not correct. I spoke to Mr Ruprecht to raise the issue. In fact, it was a bill having to do with immunization and sterilization of pets. The leghold trap bill is currently still active and likely will be coming before the committee at some future point.

Mrs MacKinnon: Was the bill number that was reported in the Legislative Assembly the correct number?

Clerk of the Committee: Yes, it was.

Mr Ruprecht: I appreciate that Mr Decker talked to me to clear up the misunderstanding. I want to thank him for getting back to me right away. We have no objection to this.

The Chair: Any further discussion? This committee stands adjourned for approximately two weeks. Mr Decker informs me we will have several other bills to discuss at that time.

The committee adjourned at 1027.

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Première session, 35e législature

Journal des débats (Hansard)

Le mercredi 27 novembre 1991

Comité permanent des règlements et des projets de loi d'intérêt privé

Chair: Drummond White
Clerk: Todd Decker

Président : Drummond White
Greffier : Todd Decker

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 27 November 1991

The committee met at 1002 in committee room 1.

CITY OF WINDSOR ACT, 1991

Consideration of Bill Pr99, An Act respecting the City of Windsor.

The Chair: There will be a slight change on the agenda this morning. Mr Dadamo will be sponsoring Bill Pr99, An Act respecting the City of Windsor. Mr Dadamo, could you introduce your witnesses, please.

Mr Dadamo: Good morning. This is the first opportunity I have had to appear before this committee, to present this bill, An Act respecting the City of Windsor. I would like to introduce you to the mayor elect of Windsor, Mr Michael Hurst, and the city solicitor, Mr Abraham Kellerman.

Let me begin by saying to the committee that the city of Windsor has undertaken a substantial redevelopment of its downtown area, particularly the part that fronts on the Detroit River. A number of hotels and apartment buildings have already been built or are proposed to be constructed in the downtown riverfront area. As well, the cultural character of the area is enhanced by the Cleary Auditorium and Convention Centre, the Art Gallery of Windsor and the Hiram Walker Historical Museum, all located in the riverfront development area.

In conjunction with the existing downtown riverfront development, the city has identified a need to construct a new multi-use facility. The success of functions held in the existing Windsor Arena, built in 1927, is seriously compromised by the present building's age and technical inadequacies. Further, the Windsor Spitfires hockey team will look forward to playing and winning in our new state-of-the-art arena soon.

With the legislative support of the provincial government, Windsor plans to enter into a partnership agreement with a private sector developer to build and operate a new arena and exhibition centre in downtown Windsor.

Mayor-elect Hurst, Mr Kellerman, city councillors and MPPs Dave Cooke, Wayne Lessard and myself would like to express excitement at a very unique way for the province, municipality and entrepreneurs to build for the future in this province. As well, I would like to give my thanks to Mayor John Millson for all his hard work and vision into the future for all Windsorites.

At a time when money is tight at all levels of government, it is extremely important to look for innovative ways of financing public projects. The recession has emphasized the need for more creative approaches in order to strengthen the economy at the community level. This agreement is an excellent example of how the public and private sectors can work together as partners in order to produce a facility of significant value for the community as a whole.

At this time I would like to ask Mayor-elect Hurst and Mr Kellerman to highlight the specifics of this bill and also the key elements of the joint venture agreement contemplated. Further, I know both these city representatives would be receptive to responding to any questions you might have.

Thanks to all the good people from Windsor city hall for making the trip to Toronto this morning.

Mr Hurst: Thank you for this opportunity. Additionally, we have Mr Kellerman, the city solicitor, and Mr Wills, the finance commissioner for Windsor, here to give the details, the specifics of the arrangement we have negotiated with the private developer, vis-à-vis realizing what we in Windsor feel is an absolute necessity.

Our position is that we have established the need very clearly. As Mr Dadamo suggested, the Premier has indicated a desire that government and the private sector get together in creative ways to allow municipal projects to proceed. At this point in time, I would simply like to pass it over to Mr Kellerman and have him, and if need be Mr Wills, speak to the specifics on behalf of the city.

Mr Kellerman: The bill we have before us is generally structured to allow the municipality to enter into an agreement with the developer as a co-venture. There is a developer in Windsor and Council has already entered into or authorized the execution of an agreement in principle. The bill follows in order to carry out that agreement in principle, although it is structured so that it can be carried out with anyone. The intent is that the land be leased for a nominal consideration, which requires an exemption from the bonusing sections of the Municipal Act—I am looking at section 1—and that the lands also be absolved from the obligation to pay municipal taxes, save and except business taxes, which would be payable to both the municipality and school boards in Windsor.

The commissioner of finance will be able to speak to the increase in taxes that would occur in the event this building is constructed as opposed to what is currently being received. There is an exception: The developer must continue to pay the local improvement rates, the normal rates paid as a business improvement area, sewer impost fees and an area levy. Those remain the obligation of the developer. That obligation is carried forward in the agreement in principle between the municipality and the developer.

Section 2 provides for the establishment of a reserve fund and an agreement in conjunction with that reserve fund. The intent is that a small surcharge will be taken against all tickets sold in the facility and that surcharge will be deposited into a joint trust account to the benefit of the city of Windsor and the developer. Those funds will be spent on the non-housekeeping items of repair and to upgrade the facility with the interest of ensuring the transmission to Windsor of a first-class building upon lease termination.

Obviously, what is intended from this is that the lands be leased for a term of somewhere between 30 and 33 years. The obligation of the tenant, which is the developer, is to pay the nominal taxes as provided for and to enter into the agreement respecting the surcharge.

With respect to the business assessment which would normally be collected, and is obliged to be collected, from this building, both school boards—the separate school board and the public school board—have agreed to an equal share in the business assessment. You will find that provided for in section 3 of the proposed bill. There is one amendment that is being requested in subsection 3(2), to change the word "shall" to "may," which will give greater flexibility to the commissioner of finance in carrying out his function under the adjustment of taxes.

1010

This bill has a limited lifetime. It has a sunset provision as of December 31, 2026. At that point in time, concurrent with the end of the lease which is entered into, the building reverts to Windsor. In essence the city, by expenditure of some $7 million at this point in time to acquire the land and entering into this joint venture with the developer, will enjoy for 30-odd years the benefit of having the structure in the downtown area, and at the termination of the lease will become the owner of that structure. It has provided, in section 2, for the reserve fund to ensure the structure is maintained over the lifetime of the building.

I believe those are the salient points of this application. If there are any further questions, I would be pleased to respond to them.

Mr Ruprecht: I have a question. You mentioned the sunset clause. You are saying the building would revert back to Windsor in 2026?

Mr Kellerman: It would be the term of the lease. It is intended that it be somewhere between 30 and 33 years.

Mr Ruprecht: What is that based on? Why did you not have it at 2026? What comes due at that time?

Mr Kellerman: Nothing. It was determined that the land would be leased for a limited period of 30 years. It would take two or three years to construct the building. At that point in time, the reversionary interest of the lease to the municipality, it would be appropriate also to sunset the legislation.

The Chair: We have a couple of documents from objectors that have been circulated recently and I believe there is one previously circulated with your package. I hope the committee members have been able to read that. Before getting into further questions perhaps we could hear from those objectors. If you gentlemen would remain, there may be questions pending the information from the objectors.

I believe we have present Arlene Rousseau and Walter Natyshak. Please come forward and have a seat. The committee members all have a copy of your brief, but please feel free to make a presentation. I am sure there will be questions pending.

Ms Rousseau: All right. You have Bernard Rondot's submission. We brought it with us, but I guess everybody has read it, so I will go on with mine.

Windsor has one of the highest unemployment rates in Ontario because of the numerous plant closures we have experienced in the last few years. Thousands of displaced workers have run out of unemployment insurance benefits and are winding up on our swelling welfare rolls. Personal bankruptcy cases are on the increase. Homes and vehicles are being lost and families are falling apart due to the financial stress.

Tony Santarossa, a 61-year-old home owner, lost his job due to a plant closure. When his unemployment insurance benefits ran out he applied for Canada pension early retirement. Now he receives $450 a month. His home is paid for but he still has to pay his property taxes, utilities and insurance. What little is left over is used for groceries. Tony is not alone in this type of situation, yet the author of Bill 99, George Dadamo, MPP, did not deem it necessary to ask Windsorites how they felt about the great tax giveaway.

Why is it that all governments of the past were determined to make the rich richer off the backs of weary taxpayers and now this government is going to follow the same old beaten track?

Windsor needs a multi-use complex-sportsplex, but at whose expense? As a member of the city of Windsor's bingo advisory committee, I am also worried about the statement by the proposed developer that he will run giant bingos out of this hall. We already have 11 bingo halls in the city and charities are only making a meagre profit now. With a giant bingo in the city who will support these charities?

To date, the property for this development has cost taxpayers approximately $7.5 million. This year we have lost approximately $250,000 in taxes on this property and this money will have to be replaced by someone, and we all know who that someone is: Yes, the good old taxpayer, the same abused taxpayer the federal and provincial governments continually visit.

Council's projection on tax loss for the next 30 years is estimated at $7 million. I wish that were true because property taxes would stay at the 1991 rate for the next 30-year time span of the proposed legislation. Common sense shows that $250,000 multiplied by 30 years works out to $7.5 million.

Let's be realistic: We are in a recession. Windsor has had many plant closings and times are difficult for all Windsorites. Can this committee justify the passage of Bill Pr99 when it will only create more hardship for Ontario's most southerly residents? Is this government willing to shoulder the blame for the loss of more family homes due to higher property taxes that must be incurred because of the lost revenue from the multi-use facility property? Can this government guarantee that the needy will receive tax exemptions? Seniors would not have to sell their homes if they were allowed tax exemptions. The multi-use facility is not a dream but a nightmare to those who can barely make ends meet.

Many have said that a private bill is a done deal and that everyone is just going through the motions. I hope this is untrue and that there is democracy left in Ontario. I implore you not to pass Bill Pr99 as it will be a hardship for too many Windsorites. This bill would set an unhealthy

precedent in Ontario. What you give to one you will have to give to all others. If a developer is interested in building in the city of Windsor then he should do so, but not at the cost of taxpayers.

I wish to thank you for this opportunity to put forth my strong reservations and the reservations of many Windsorites pertaining to Bill 99 and its unfairness to taxpayers.

Mr Hansen: Was this issue brought up in the last municipal election? The people who supported the members who were elected again are with this particular complex, am I not correct?

Mrs Rousseau: You had a 33% turnout in one ward. There was a very poor turnout in this last municipal election. People just did not care.

Mr Hansen: In your brief it says, "Windsor needs a multi-use complex-sportsplex." Reading through this, the $7.5 million taxpayers would be giving up in taxes—now if the municipality builds this it will not receive taxes because it will be a municipal—

Mrs Rousseau: But it will receive the profits.

1020

Mr Hansen: Then there is the layout on the cost of the building. What would be the profits? You are going to inherit this building after 30 or 33 years. I do not live in Windsor, this is why I am asking these questions.

Mrs Rousseau: I know you do not. I can understand where you are coming from and, yes, it would be a very large output for the city itself, but there are other developers interested in this. I do not even know if they were offered this exemption or if they just proposed to build it on their own.

Mr Hansen: Can you tell me how many developers were interested in this particular complex?

Mrs Rousseau: Including the one that has it now, it is three.

Mr Hansen: I guess I would have to ask the city what the process was on bidding.

Mr Sutherland: You mentioned bingos and that one of the proposals would be that a large bingo operation would go in this complex. You said that would take away from the charities. I guess my question is more one of clarification. I thought the regulations or guidelines for operating bingos meant that the profits have to go to charities anyway. I do not follow the argument that charities are going to lose, because the money from bingo would still have to go to charities. Is that the way it works? That was my understanding of how bingos operate in the province. Could you comment?

Mrs Rousseau: Halls right now receive 15% and the charities receive 20%. They are barely making that now. With a giant bingo, you would be taking away from the already thinning halls and putting it into one big hall, so the charities in the smaller halls are going to lose out. Windsor, as well as this province, cannot afford to give to charities when they have to keep their budgets in line.

Mr Sutherland: If I can just ask one more question, why would the smaller charities, if there was not enough business at the other ones, not decide to get involved in this one?

Mrs Rousseau: Because there are only so many nights and there are a lot of charities.

Mr Ruprecht: I have a number of questions that concern me here. What is the Windsor Citizens Association? It says A. Nelman, vice-president, who I assume wrote a letter objecting to it.

Mrs Rousseau: That has nothing to do with me.

Mr Ruprecht: It does not?

Mrs Rousseau: No.

Mr Ruprecht: Okay. Can you tell me what is your main objection? Is it actually that the city will be losing in terms of tax revenue, or am I mistaken? In other words, can you very quickly tell us what is your main objection there? Is that the only one or are there others?

Mrs Rousseau: My objection is the 30-year or more tax exemption. This year they lost $250,000. That is going to have to be made up somewhere. Next year, with rate increases and interest increases, it is going to be more than $250,000 and you cannot continually run at a loss. If the developer was that interested in building in Windsor and felt the multi-use facility would be a profitable venture, I do not think it would be asking for this type of tax exemption. It is something I have never heard of before.

Mr Ruprecht: There is another letter here. Do you know Bernard Rondot.

Mrs Rousseau: Yes. Well, no. He contacted me and asked us to bring his with us.

Mr Ruprecht: I wonder whether you can back this up. I find this very strange. Mr Rondot writes in his second paragraph, "It is difficult to address a group committee that has not been identified, and to address the bill in its legal form as a copy has not been made available. Has a copy been made available to you?

Mrs Rousseau: It was made available to me through an MPP's office.

Mr Ruprecht: It was not easily—

Mrs Rousseau: No. In fact, even knowing about this meeting was by accident.

Mr Ruprecht: Finally, I asked the question earlier to the city solicitor. He indicated that in the year 2026, if I understand this correctly, it would all revert back and consequently taxes would be paid then. Does that mitigate your concern to some degree?

Mrs Rousseau: First off, you are receiving a 30-some-odd-year-old facility, and you are saying the taxes will be paid on it then. Well, then the city owns it so it does not have to pay the taxes. When I started writing my submission I was looking at my children; they are 10 and 12. When it comes back to the city, my oldest daughter will be 42 years old and she will still be paying for our mistakes.

Mr Ruprecht: Then my final question would be, how many other residents or citizens do you know of who object to this, and in what way are they objecting to it? Are they objecting vehemently or are they just saying, "Well, it's the city of Windsor; there is not much we can do about it"?

Mrs Rousseau: I think the last municipal election and the number of voters who turned out was an example of just how apathetic people are now: "If the government does something, to heck with it. We will just leave it alone. There is nothing we can do."

Mr Ruprecht: But you think the dissatisfaction with this project is wider than simply the three letters we have received?

Mrs Rousseau: Not the project, the exemption.

Mr Ruprecht: The exemption, sorry, yes.

Mrs Rousseau: There are so many people who could use that tax exemption besides a rich developer.

Mr Sola: I would just like to ask one question. Without the exemption, would this project go ahead?

Mrs Rousseau: Yes, it would. I am sorry; the developer would not go ahead without the tax exemption, but the city does own the property now.

Mr Sola: Is the city better off with the project or without the project?

Mrs Rousseau: As it stands right now with the exemption? Without.

Mr Hansen: Was Bill Pr99 not advertised in the paper? It seems that in these write-ups the people of Windsor were quite aware of this project. I think the other members asked some questions also. In the election, if this was a big issue with the residents of Windsor, they would have turned out and supported whoever their council people were who spoke against this. It just does not seem to be there.

Mrs Rousseau: I have worked in many elections in the city of Windsor, and it is awful to say that when they have to fight the government, people feel they would rather just give up.

Mr Hansen: That is where they put the "X."

Mrs Rousseau: That is why most of them do not show up. As for the notice, it was in the paper. I am looking at Mr Rondot's submission in September. I did not know about this meeting until Mr Natyshak ran into Mr Dadamo in October.

Mr Miclash: As a supplementary to that, did any of the people who were elected run on a platform where they were against this project?

Mrs Rousseau: No. All incumbents were re-elected.

Mr Sola: Further to that, were there any people who campaigned exclusively against the project and did not win?

Mrs Rousseau: Yes, me. I might as well be honest because Wayne will tell you.

Mr Ruprecht: But that may not be because you were against the project. That may simply be because you were not running a good campaign.

Mrs Rousseau: Ask my campaign manager. He was George's.

Mr Sola: Strike that from the record.

1030

Mrs MacKinnon: Is there anybody who can give us an approximate dollar amount of loss or gain or otherwise in regard to this assessment, or is that not relevant?

The Chair: Do you have some approximation?

Mrs Rousseau: All I was given was that this year we lost $250,000, and then it stated in the newspaper that we would only lose about $7 million or $7.5 million in taxes over the time span. If you multiply the $250,000 by 30 years, you come out to $7.5 million, but for every year the rate is going to change, so that cost is not right.

Mrs MacKinnon: So in that figure, are you multiplying numbers? If you put together the business assessment and the land assessment and the building assessment—are you putting all three of those in those figures?

Mrs Rousseau: No.

Mrs MacKinnon: What are you figuring?

Mrs Rousseau: That is just the property taxes.

Mrs MacKinnon: Okay, thanks.

Mr Sola: You said about 33% of the people voted in the election?

Mrs Rousseau: In my ward.

Mr Sola: What is the normal turnout in Windsor in a municipal election?

Mrs Rousseau: It is 47%.

Mr Sola: You ran a campaign opposing this project and you had 14% fewer people voting than would normally vote. The way I read things, then, there was not very much opposition in your own ward to this project, because it seems to me if the people in the ward or in the city were opposed, they would go out in great numbers to vote for the person campaigning against the project. I am getting the feeling that now you have failed on one front, you want us to take up your battle here at Queen's Park. I feel a little bit uncomfortable with that. I think the people who are closest to the project should be making up their minds one way or the other and not asking those of us who have no clue of the situation in Windsor to help you in your campaign after the municipal election is over. I feel a bit uncomfortable about that.

Mrs Rousseau: Mr Sola, the municipal campaign is over with. Whether I had run or not, I would have still fought this. I do not believe the rich should get richer off the backs of the taxpayers, and I believe very strongly that everybody pays their fair share. If I am going to have to pay my fair share, then everybody else in that city, whether they are a developer or a person on a limited income, has to pay his or her fair share, no matter what the amount is. I am getting very angry at the thought that there are companies across this province that are not paying taxes, yet we have people sleeping on the streets. It is very evident in this city alone.

Mr Sola: But may I point out that this is still a democracy, and the majority opinion counts. If you cannot get the majority of people to think your way, I do not see where you can insist on having your way. We do have a process here. You did mount a campaign against the project, and I would suggest that in a democracy, we allow the democratic process.

Mrs Rousseau: I am not going to get into the pros and cons of why people lose elections. One party lost an

election in 1990. Whether it was because the people liked or disliked its election platform or what it did does not matter. You are in the position I am now in: City council is the government; we are the opposition. I support the city in many things, but I will not support the city when it comes down to a rich developer not paying its taxes when my next-door neighbour and I still have to.

The Chair: I do not believe there are further questions. Thank you very much, Mrs Rousseau, for a very articulate presentation.

Mr Sutherland: I may have missed it in the literature that was handed out, but obviously a feasibility study was done for this project on what type of revenue it would generate for the city in terms of business. Can you give the committee some estimate as to what that feasibility study indicated and the type of revenue it would bring into the city overall?

Mr Hurst: I am going to defer shortly to Mr Wills, the finance man from the city of Windsor, but let's have one thing clarified here at the very beginning. If this project proceeds, it will generate, we estimate, approximately $250,000 a year in business tax. That $250,000 figure is substantially more than the property and business tax generated by the buildings that used to exist on this property. That is the fact of the matter. In terms of precise revenue projections, I will defer to Mr Wills.

Mr Wills: The precise revenue projections are in the developer's domain, but I think from the city's perspective there are three things to be noted.

One, if we built this ourselves, there would be no taxes generated from the property. It would be exempt. Further, we would be entering into debt, anywhere from $30 million to $38 million, which would also have to be paid off by the taxpayer. Frankly, if we did finance this in the conventional way, we would be coming to senior levels of government, such as the province and the federal government, looking for grants to help pay for the $38 million to $40 million.

I think all of us are in financial positions now that we just cannot afford it. It is because we could not afford to do this in the conventional way that we sought a co-venture where private enterprise helps to develop a public facility. It is on that basis that the council has approved this project, because I believe it is win-win. The business taxes alone, as already pointed out by His Worship, exceed the amount we are currently getting in property and business taxes from that particular site. When this development is done, the business tax alone that will be paid will generate more money than the current property and business taxes on that particular site.

Mr Ruprecht: Was any attempt made to have the parties get together with Mrs Rousseau? Was an attempt made by the city to sit down with Mrs Rousseau and some of the other residents or citizens who were unhappy with the project to try to iron out some of the differences, if that was even feasible? Was there a meeting or an attempt made to do that?

Mr Hurst: No, I do not believe there was. But with all respect, I do not believe Mrs Rousseau represents in any way the feeling of our community vis-à-vis this particular project.

We have, as a municipality, as Mrs Rousseau pointed out, an unemployment rate in excess of 15%. City council has adopted something called the fiscal fitness policy, which speaks to the issue of the responsible use of taxpayers' money. For example, in 1991, the tax mill increase in the city of Windsor was 3.8% in the face of an inflation rate that is going to be around 6%. That gives an indication how serious the elected representatives—who, by the way, were all re-elected. The complete slate was re-elected, including myself as the new mayor of the city of Windsor. Many of us spoke very eloquently, I would submit, on the issue of economic diversification, on the issue of allowing this particular project to assist us to develop in a very big way our ability to attract tourism to the city of Windsor.

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We have a 15% unemployment rate in Windsor. We also have access to millions and millions of people in the midwestern United States. We have also expanded, with support from the then Liberal government of $32 million, in creating what is called the Cleary International Centre. That is the key to our ability to get into the US market in a very big way, and we need that, to be honest with you. We are a border community and we are hurting; we are hurting very hard. This is part and parcel of the support of the infrastructure necessary to allow us to get into tourism, to allow us to get into the trade business, to allow us to get into the exhibition business and so on.

I have lived with this thing for four years and I can assure you that my point of view is one that is representative of those who live in the city of Windsor. We understand the need to become less reliant upon the manufacturing-automotive sector in Ontario. We have made every effort to scrutinize this proposal to the best of our ability, and we have all the experts here. We believe we have done our job. I think we have been supported by Premier Rae almost directly. He suggested that things like this are things that all levels of government are going to have to deal with in the future. It is called creative financing and it is called partnership with the private sector. I think this is a classic example, an example that hopefully, if this bill is passed, will be used by other municipalities in the province.

Mr Hansen: Who were the other people who bid on this complex? Were they asking for the same deal of tax rates or was this a developer who came forward with an idea?

Mr Hurst: It was a combination of the two. There was the normal process in terms of a request for proposals. One of the specific items described in the proposal call was the city of Windsor's desire for creative financing which would have a minimal impact on the tax base, on the taxpayers of the city of Windsor. To be completely honest with you, going through the process, there was not a proponent who provided that creative financing package we were looking for. What we did was to allow the final two bidders, or proponents, so to speak, to sit down and discuss with us in great detail the possibility of creating a financial package that would be creative and would provide for impacts on the taxpayers that were as minimal as possible.

Mr Docherty was one of them. There was another group with which we sat down and had extensive discussions.

We were told there was going to be an innovative financing proposal made to city council, and it was never made by the other proponent. Mr Docherty, to his credit, fulfilled the very important aspect of this entire undertaking, which was to allow the provision of a municipal facility with as minimal as possible impact on the taxpayers of the city of Windsor.

Windsor has something called the debt reduction policy and we have adhered to it religiously over the last number of years. In Windsor—I am going to do a little bragging—we have been able to reduce our debt from in excess of $100 million in 1985 to $29 million in 1991. As an elected representative, I am going to state quite clearly that there is no preparedness on the part of city council to encourage or incur debt to the tune of $35 million to $40 million to allow the creation of what we believe is basically a municipal facility.

Mr Sola: I would like to ask the mayor if this was a big issue in the recent election campaign.

Mr Hurst: The best way I can answer that is that there were basically two candidates for the mayor's chair. My opponent was of the mind that this particular deal should be put aside. I was of course of the mind that I was extremely supportive and I thought it was beneficial to our community. I won the election by 20,000 votes.

Mr Sola: You mentioned that you could build it yourself and finance it conventionally. What would be the difference in cost—financing it conventionally, raising the money and paying off the mortgage as any other person would have to do, and giving this exemption to the builder and going the route you are going—to your ratepayers in Windsor? Would it be the same? Would it be tilted in favour of one or the other?

Mr Hurst: I will defer to the expert, Mr Wills.

Mr Wills: If we were to issue the debentures, if for example we could not get any additional funding from senior levels of government, that would be our first thing, but I think all levels of government are having difficulty coming up with additional funds. If we assume we have to put up the whole $38 million ourselves to develop this, we are looking at principal and interest charges over 30 years of $4 million additional a year to our taxpayers, and that works out to $120 million in 30 years just because of the interest rate of 10% that we used in this particular calculation. There is a huge addition to our debt load, in relative terms to the city of Windsor, by funding this ourselves. I cannot speak for senior levels of government, but I do not see them with a lot of money to help fund such a project as well.

The Chair: Any comments from the parliamentary assistant?

Mr Sutherland: As you know, I am not the parliamentary assistant to the Minister of Municipal Affairs. He unfortunately is absent, but I have been giving comments and the Ministry of Municipal Affairs has no objections to this.

The Chair: Thank you, Mr Sutherland. Are members ready to vote?

Mrs MacKinnon: Before we vote, do you want the motion to strike the word "shall" and substitute the word "may."

The Chair: That would be part of the voting procedure.

Mrs MacKinnon moves that subsection 3(2) of the bill be amended by striking out "shall" in the third line and substituting "may."

Discussion? All in favour of the amendment? Thank you.

Mr Ruprecht: You have to ask "opposed," Mr Chairman.

The Chair: Any opposed?

Motion agreed to.

Sections 1 and 2 agreed to.

Section 3, as amended, agreed to.

Sections 4 to 6, inclusive, agreed to.

Schedule agreed to.

Preamble agreed to.

Bill, as amended, ordered to be reported.

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CITY OF HAMILTON ACT, 1991

Consideration of Bill Pr53, An Act respecting the City of Hamilton.

The Chair: We have before us Bill Pr53, An Act respecting the City of Hamilton. The sponsor is David Christopherson. Mr Christopherson, could you introduce the witnesses.

Mr Christopherson: I appreciate the opportunity to be here. With me is Mr Don Peters, who is the assistant chief fire prevention officer for the city of Hamilton, and Mr Lorne Farr, who is a solicitor with the solicitors' department in the city of Hamilton.

Briefly, Bill Pr53 is to enable the city of Hamilton to require that low- and high-rise apartment buildings be retrofitted with smoke alarms and emergency lighting in light of the fact that neither the fire code nor any other piece of legislation will currently allow the city of Hamilton to enact such bylaws. With that, I would turn it over to the city representatives to present the details to you.

Mr Peters: My name is Peters, initials D. L. I am the assistant chief fire prevention officer for the city of Hamilton. I appreciate the opportunity to appear here this morning.

The city of Hamilton is progressive in its delivery of fire protection, public fire safety education and fire prevention inspection services. Our rating by the insurance advisory organization is in fact second to none across Canada.

In 1986, the city of Hamilton passed bylaw 86/253, which made smoke alarms mandatory in one- and two-family dwellings constructed prior to the 1976 building code, which required them in new construction. This bylaw was seen as necessary to provide this lifesaving protection as there was no retrofit legislation forthcoming at the provincial level, either through the fire code or as an adjunct to the Ontario Building Code. Our public education efforts and those of the office of the fire marshal extolled the lifesaving benefits of the early detection and

notification of fire, and also the appropriate responses to take upon that notification.

Statistics released by the office of the fire marshal for 1989 indicate that 46.9% of all people who died in residential fires did not have a smoke alarm, and of those fatalities 30% were asleep at the time of the fire occurring. Sadly, a further 26.5% of all fire fatalities occur in residential occupancies where there is a smoke alarm that has been rendered inoperative due to lack of maintenance, mechanical failure or damage. Unfortunately, people are dying where they feel most secure and yet where they are the least protected: in their residences.

The regrettable but true fact of the matter is that friends, family and fellow citizens in this country, and more important specifically in Ontario, are needlessly dying as a result of their extended and unnecessary exposure to fire. Prompt detection and early warning of the existence of fire in its first stage increases survival odds and reduces the number of persons fatally and finally affected by fire.

The requirements set out in the proposed legislation, we feel, are no more onerous than, nor do they conflict with, the detection requirements set out in circulated drafts of the proposed sections 9.5 and 9.6 of the Ontario fire code. These drafts of the proposed retrofit sections of the fire code have been reviewed, discussed and subjected to cost impact analysis since 1988 and are still not passed into law despite the demonstrated need.

Our purpose in requesting permission to municipally enact this lifesaving retrofit legislation is to address a very real need for a large segment of our municipal population that resides in older buildings which are not protected to the same levels that newer residential buildings have been constructed to.

We recognize that our municipal legislation will be superseded by provincial legislation upon its enactment. As we do not know how long we will have to wait, we are merely asking for permission to provide an interim or bridging piece of protective legislation to protect a sizeable target population in a manner which will not be inconsistent with the proposed provincial legislation and regulations.

Proactive measures and intervention, whether in the field of health care, worker safety or in the area of fire prevention is the most prudent and cost-effective method of mitigating situations or conditions which can have dire effects on the safety of one's person. It is for this reason that we urge you to support Bill Pr53 and permit us to provide a higher degree of protection for our citizens.

We recognize there are cost implications involved and associated with the proposed installations which must initially be borne by the building owners and ultimately passed on to their tenants. We find it a little difficult, though, to equate these with the physical suffering and loss of life arising from fire. There is also the benefit to the owner arising from the early detection of fire, resulting in its speedier extinguishment, resulting in less damage to the structure.

What we have in Bill Pr53, we feel, is a positive method of protecting what may be termed a very valuable and non-renewable resource, namely, the human lives of the city of Hamilton. I would like to thank you for this opportunity to speak to you on this matter this morning, and trust that your decision will be taken with due consideration of our reasons for seeking this legislation.

Mr Ruprecht: I have a brief question. I note you have a special section, which I find very admirable, in this Act respecting the City of Hamilton, subsection 2(2), on hearing-impaired tenants:

"A by-law under clauses (1)(a) and (b) may require the owner to supply a smoke alarm which emits a strobe light for any hearing-impaired tenant who requests such a smoke alarm."

One question is, what is the cost of this? The other one would be, if a tenant were not hearing-impaired—of course we would agree with all of this—and still wanted a strobe light, what would your answer be?

Mr Farr: In fact, I was going to make an amendment. I am told that the proper term for the hearing-impaired should be "the deaf or hard of hearing." I would ask the committee, if it passes the bill, to make the amendment to those two sections of the bill from "hearing impaired" to "deaf or hard of hearing."

The cost of the strobe light smoke alarms is somewhere, I believe, in the $150 or $200 range. It was the intent of the aldermen of the council who moved that amendment that it only apply to the deaf and hard of hearing to enable them to be warned of fires. On your question of other people who would wish to have them in their houses or apartments, I suggest they could purchase them themselves. I am sure the superintendents of the building would not mind having them installed.

Mr Ruprecht: I want to thank Mr Christopherson, who is obviously the sponsor of this, for having thought of some of these things. Being the former minister responsible for disabled persons, I really appreciate that this section is in this bill.

Mr Christopherson: I appreciate the credit. We do not often get that from across the House, but the credit goes to my local city council. It is their piece of legislation. I just have the privilege of being here to access this committee with it. Thank you, and I will pass that along to the council, Mr Ruprecht.

Mr Sola: Is this a unique piece of legislation or is it based upon something that some other city has already incorporated?

Mr Peters: The requirements, as set out in the draft legislation, were drawn from proposed drafts of the Ontario fire code. They were not taken specifically from any municipal legislation presently existing.

Mr Hansen: I was just going to ask a question on buildings under three floors. Are the alarms in the units hooked up from one unit to another, if they are electric ones, in some of your bylaws here? I got through quite a few of them, but I did not get to that point. Are they interconnected?

Mr Peters: Are you referring to buildings not covered under this legislation under three storeys?

Mr Hansen: Yes, under three.

Mr Peters: For under three storeys we presently have a municipal bylaw that covers one- and two-family dwellings, which requires non-interconnected smoke alarms in those one- and two-family dwellings. The smoke alarms in those one- and two-family dwellings may either be AC or DC powered.

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Mr Hansen: But when you get into the three floors, in the hallways they would be interconnected but in the units themselves they would still be independent?

Mr Peters: Not interconnected; they would be single station.

Mr Hansen: I owned an apartment building and they were all interconnected; it was a bylaw in the municipality. When somebody was cooking fish that meant they went off in all the units, and it was under two storeys. I think it is very true here.

Mr Peters: It is a very valid point.

Mr Hansen: You have thought all these out. I think it is a very good bill and I will have to support it.

The Chair: Any further questions of the applicants? Gentlemen, if you would not mind attending, there may be questions pending the witnesses who will be forthcoming. We should have a vote within a short amount of time.

CANADIAN HEARING SOCIETY

The Chair: I believe we have a delegation from the Canadian Hearing Society.

Miss Conlon: Unfortunately I am alone today. I am Mandy Conlon from the Canadian Hearing Society. I would like to note that two of the representatives from the deaf community were unable to come here for the meeting today due to the lack of a sign language interpreter. They would have liked to have given their views, but because of the communication barrier were unable to do so. I am here to relay that information on their behalf.

In regard to the bill itself, we are not opposing it. We want some amendments to it. I would be interested in knowing the smoke detector cost for the one with the strobe light at $150 to $200. I would be interested in seeing that. I have been working at the Canadian Hearing Society for over two years now and we have yet to find an effective smoke detector for deaf or hard-of-hearing people. The strobe lights are ineffective so far, due to the fact that they are not strong enough. They have not been designed for deaf people. They are usually a very weak light that does not wake somebody up in the middle of a dead sleep.

Strobe lights are not the only visual alert that is needed. There should be a tactile alert for hard-of-hearing people, a vibrating system that would shake the bed at night. Hard-of-hearing people who wear hearing aids in the daytime and take their hearing aids out at night would not be light sensitive and would not wake up to a strobe light going off.

There also has to be a relay with these smoke detectors. If there is one smoke detector in an apartment dwelling in the living room, somebody is not going to see that strobe light if it is in another room. For hearing people, when a smoke detector goes off there is an audible sound which is very ear-piercing and can usually be detected throughout a whole apartment dwelling. For deaf people, it has to be line of sight—they would have to see that light—and it would have to be a fairly bright light. For hard-of-hearing people, again, it would have to be a vibrating unit to wake them up at night. I believe it was Mr Peters who said that 46.9% who died were asleep. It would be interesting to know how many of those people were deaf and hard-of-hearing or seniors who were just unable to hear that smoke detector going off.

Our concern is not that the bylaw is passed, because this bylaw is probably a godsend for deaf and hard-of-hearing people, as it may force a manufacturer or somebody out there to design a smoke detector that will work for deaf and hard-of-hearing people. A lot of manufacturers have come up with some wonderful ideas, but they do not work: The lights are the wrong colour; the strobe lights are not strong enough; they do not relay to other rooms, and they do not have a vibrator attached.

It is all fine and well to tell me that one will cost $150, but so far the best smoke detector we had somebody manufacture required a control panel and a lot of relay switches and was over $1,000. That one actually worked and the deaf and hard-of-hearing communities were very impressed with it. Who is going to be financially responsible for that? If the building owners are financially responsible for that and the cost is going to be that type of cost, the other concern is that deaf and hard-of-hearing people will be turned away as tenants in those buildings because of the extra cost that will be incurred by the building owners.

There are a lot of added things that need to be looked at. We are sort of passing a bylaw for deaf and hard-of-hearing people, but there really is not an effective smoke detector on the market for deaf and hard-of-hearing people yet. There are a lot of claims of smoke detectors working for deaf and hard-of-hearing people, but there is nothing yet that I am aware of. If we come up with something, great, but there is nothing yet. That is about it.

The Chair: Before I solicit questions from the committee members on the issue of the deaf and hard of hearing, does the suggested amendment to that section fit with your experience?

Miss Conlon: It would fit with my experience. Again, I do not like speaking on behalf of the deaf and hard-of-hearing communities. I am sure the deaf people who would have liked to have been here would have wanted to add something.

The Chair: With all due respect to the city of Hamilton, I think you could probably do so better than they. We could bear that in mind in regard to the amendment, if anyone is going to produce said amendment. Committee members, do you have any questions for Miss Conlon?

Mr Ruprecht: Your discussion was somewhat helpful when you said there are some smoke alarms or detectors on the market whose use may be somewhat limited. Has your association been in touch with any of the manufacturers to give you a brand of approval, a certain item or a certain smoke detector that may be of more use than others?

Miss Conlon: We have been in contact with a couple of different organizations and companies. Serv-Alarm was one of them within the Hamilton region. What we are coming up against with some of the private manufacturers is that they do not see a market out there and will not invest the time or money to develop such a smoke detector because they do not anticipate a return on their investment.

Most of the smoke detectors we have researched come from the United States, so we are looking at some problems with standards. We have been working on it for two long years that I am aware of and it is still being worked on. As soon as we find somebody who is willing to make one for us, we will bring some people up to test it out. That is our main point: The deaf and hard-of-hearing people need to test them first before they are actually designated as workable units.

Mr Sola: I would like to ask a question regarding this amendment. Is this just a question of semantics or is there a definition associated with "hearing-impaired" and the other wording, "deaf or hard of hearing?" Is this just a more acceptable way of phrasing the same thing or is there a difference in level of hearing-impairment?

Miss Conlon: There is a difference in level in hearing-impairments. "Deaf" and "hard of hearing" are two separate issues. When you speak of "hearing-impaired," you are grouping a bunch of people in one set group, where the needs of deaf people and the needs of hard-of-hearing people are totally different. That is why there is the distinction.

Mr Sola: But would not "hearing-impaired" cover a broader range?

Miss Conlon: I guess the best answer to that would be I wish the deaf people were here to explain that. It is again something that deaf and hard-of-hearing people prefer. Most deaf and hard-of-hearing people, if you were to call them hearing-impaired, would correct you as to which they would prefer to be deemed as.

Mr Hansen: I think this legislation, what I can see, is very progressive. Being progressive and being one of the first municipalities to enact legislation like this—it has been noted that some of the manufacturers have not come up to speed to meet these requirements for the deaf community—I think that with Hamilton, manufacturers will see that one municipality has already passed a bylaw, and as other municipalities take the direction of Hamilton it will be a lot cheaper and easier to obtain smoke alarms for the deaf and hard of hearing. I have to go along with Hamilton. But when we get into shaking beds, I do not know how much we can put in this bill right at the very beginning. Sometimes you have to learn how to walk a little bit first and then you can walk faster later on. I have to agree with the bill. As I said, I will be voting for the bill because I think it is very progressive.

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Miss Conlon: I agree with the bill myself. It is just a matter of amending it and making some changes to it so that the detector has to be deemed by deaf and hard-of-hearing people. It cannot just be something that is decided by other people. It has to be in there that whatever detector is going to be used for deaf and hard-of-hearing people is deemed by those people as a workable unit.

Mr Hansen: Maybe there can be an amendment later on when the right products come on the market that they feel are sufficient. Maybe there will be new technology in two years and you could go back to the city and say, "We'd like to have this put into this particular bill as an amendment."

Mr Abel: This is more of a comment than a question. I certainly agree with the bill and the intent of the bill, but I can also understand, Miss Conlon, what you are saying because I am hearing-impaired. When I sleep on my left side I do not hear anything. I am also a very sound sleeper and I can say through experience that a strobe light simply would not do it. It would not alert me to a fire or whatever the problem may be.

I think if we perhaps change the wording a little bit to replace "strobe lights" with something to the effect of "an appropriate device," it leaves it broader, more general. As Mr Hansen said, when things do come on the market, if they are available, that would be in the legislation and it would be an option to bring it out. It is a good bill. I will support the bill, but a strobe light simply would not do it. I would feel more comfortable if the words "strobe light" were replaced by "an appropriate device."

Mrs MacKinnon: I think Mr Abel's question pretty well answered mine. I am absolutely amazed that any municipality in Ontario has to go through this. Obviously the ministry or the government, whatever you wish to call it, does not have this built in. I really commend those who have seen fit to come forward with this. I am going to support the bill, with a few minor changes perhaps.

For the benefit of those who do not know, I try to understand "deaf" as opposed to "hearing-impaired" or "hard of hearing" because I too am hard of hearing. Today my hearing is really good because last night I had some corrections done on the inside of my ear. I would not want anybody to call me deaf, although my kids do it time and time again. I think maybe I am deaf when I want to be.

I too support what Mr Abel says in regard to "suitable device." I know for a fact a strobe light would wake me up. I know when my smoke alarm goes off it feels as if my head is coming off, but I am sure for somebody very deaf, like our colleague Gary Malkowski, the strobe light may not do it. A strobe light would wake me up in a hurry because any movement in my room would do that. I would like to ask you what you mean by "vibrating device." Do you mean something to vibrate the bed or vibrate the chair?

Miss Conlon: There are a couple of different vibrating devices that are used as alarm clocks. It is a little square electrical device that is placed in between the mattresses. Most people who have been deaf from birth are very sensitive to vibrations. That vibration will travel through the bed and wake them up. It does not have to shake the whole bed, but it can be just a slight vibration depending on the person. Again, changing the amendment to "appropriate" allows that person to choose the type of system that would work for them. Some people need a

larger, stronger vibrator. It all depends on the individual and everybody is different.

Mrs MacKinnon: Thank you very much. I really respect what the Canadian Hearing Society is doing in its work for people who have problems with their hearing.

Mr Sutherland: While there is certainly general support for the principle here, it may be appropriate at this time to have some comments. We received some letters to the committee, comments from a couple of different ministries that expressed concerns about some aspects of this legislation and this specific bill coming forward. I do not think anyone is disagreeing with the principle of the bill and the intent of the bill, but there may be some concern. We have staff here from the Solicitor General and from the Ministry of Housing. Maybe, Mr Chair, we could have them comment at this time.

The Chair: Thank you, Mr Sutherland. Before that occurs, and I am sure it has the permission of the committee, are there further questions of this witness?

Mr Sola: I am a little bit bothered by the specifics, because if every hard-of-hearing person is different as far as his sensibility in regard to these vibrators is concerned, how on earth can we design a law to take care of every individual? Even hearing people have different levels of hearing. We just specify a smoke detector which is audible. Some people have very sharp hearing and other people do not, but we have sort of a general standard. I think it would be almost impossible to design a law that would cover people individually.

Miss Conlon: It would not necessarily be individual in the sense that every person would have to come up with his own idea. If we were to include a strobe light and define the colour of the strobe light, as deemed by the majority of hard-of-hearing people, and a vibrator, as deemed by the strength that is needed—the vibrator can appear stronger depending on where it is placed within the bed. Under the mattress it may not be as strong a feeling or sensation as it would be under somebody's pillow. That is a way to be able to have the freedom and flexibility there, but if it were to be deemed a white strobe light of X intensity and a vibrator of X strength, that is what we are looking at, and that would be the majority of those people and that is the survey we are trying to come up with now because of this bylaw, to put down in a concrete form what is needed.

Mr Sutherland: Maybe we could have the ministry people, first Ministry of the Solicitor General. Would you come to the microphone and introduce yourselves for the purpose of Hansard.

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Mr Philippe: My name is Roy Philippe. I am the deputy fire marshal of Ontario. The bill introduced by the city of Hamilton addresses the issue of smoke alarms and emergency lighting. As Mr Peters indicated in his presentation, the basis for the bylaw or the power for bylaws was the draft fire code retrofit provisions 9.5 and 9.6.

We as a ministry agree in principle with the draft bill as provided by the city of Hamilton. However, since 1981 we have had a uniform piece of fire legislation in Ontario. We also believe that the provisions made in the Hamilton act address only smoke alarms and emergency lighting. In draft retrofit provisions we believe our draft legislation will encompass all the life safety features required in the building. The draft proposals we have and that have been circulated to the fire services indicated by Mr Peters address adequate exits from the building, confining and controlling the fire through compartmentation, provision for early warning systems, including the installation of smoke alarms, and the installation of fire suppression equipment.

We also believe firmly that any standards that would apply to one municipality, if they are appropriate, should apply province-wide. On that basis, we believe that what is being proposed for Hamilton should be considered and applied to all municipalities within the province. We believe that the retrofit provisions are more comprehensive and, as indicated, appropriate for uniform application.

The draft legislation or retrofit has been under consideration for a significant period of time. We have however completed our final consultations, are finalizing the regulations and will be bringing them forward for consideration. On that basis, we do not recommend that the Hamilton bill go forward at this time.

Mr Sutherland: The Ministry of Housing representative?

Mr Arlani: My name is Ali Arlani. I am manager of the building code services section of the ministry. I want to echo some of the points the deputy fire marshal raised. Our ministry, because of its mandate throughout the building code, does not have any problem where you deal with minimum safety standards. We have always supported it. However, if we are talking about minimum safety standards, they should be province-wide. There is no reason why, if something is good for the city of Hamilton, the city of Toronto or North Bay should not have the same. Based on that, we have always followed the route that a uniform set of provincial standards should be built. We have been working with the Ministry of the Solicitor General and the office of the fire marshal for the past couple of years to finalize a package of amendments which comprehensively deals with the issue of minimum breadth of the standards for residential buildings, under sections 9.5 and 9.6 of the fire code.

The consultation on that package has been completed. Our understanding is that we are talking about bringing it forward for consideration by cabinet, as well as the standing committee on regulations and private bills, and that is in sight. At this point, our ministry's recommendation is not to go with this private member's bill and support the introduction of the residential retrofit standards province-wide. Also, the committee may look at the issue of deferring final consideration of this bill at least for the next few months. If the residential retrofit standards are introduced within the following few months in time for the spring session, there may be no need for introduction of this bill.

Mr Sola: Could this bill not serve as a pilot project to see about the feasibility of the recommendations made as far as cost and everything else is concerned?

Mr Philippe: As Mr Peters indicated, the criteria in the bill are based primarily on the retrofit provisions that we are developing, so they would be based on sections 9.5 and 9.6. In his presentation he indicated they would be no more onerous than what is presently in the draft document that we have available. We do not believe there is any more need for pilot. We believe the principles in that bill adequately address the life safety provisions for all citizens in the province.

Mr Abel: The comments I have just heard are certainly not new to me. As many of you are probably aware, in December 1990 I introduced a private member's bill, Bill 22, An Act to provide for Certain Rights for Deaf Persons. It involved hearing-ear dogs. The comments I just heard are the same comments I heard earlier, that there is more legislation forthcoming and that it should be province-wide. Those comments are very commendable, but when is this legislation going to come out? People who could benefit from the use of, for example, hearing-ear dogs could be benefiting from that piece of legislation for a year, two years, whatever it takes for the umbrella legislation to come out. If it takes six months, fine. If it takes a year, fine. At least the people have the benefit of the legislation.

This private bill that is being submitted from the city of Hamilton, as I said earlier, is commendable. Let's hope that some permanent province-wide legislation does come out, but at least let's have this in place until we see that legislation. I support the bill. I would like to see some changes in terms of provisions for the hearing-impaired and the deaf, but I do not think we should be turning this bill down for the simple reason that there is some province-wide legislation coming whenever. We do not know.

Mr Hansen: It looks like Hamilton is a pioneer in this particular area and I think, as my friend here has already said, let's get on with it. If this legislation comes in, let's call it a pilot project in Hamilton. As other municipalities come forward to upgrade their fire regulations, you can be telling them this is coming up and is going to be put through by the province. Maybe a lot of legislation that comes in does not work, but you propose it. But when something is working, then you can fine-tune what Hamilton has already for the whole province. I think it would be a good guideline for the ministry to take a look at.

Mr Sutherland: While I do not disagree with the comments that Mr Hansen and Mr Abel have made—I think they are very valid—I still think I would like to give the ministry some time. I would like to move a motion at this time that we defer this for up to a four-month period to give the ministries time to come back.

The Chair: Four months?

Mr Sutherland: Yes.

The Chair: Mr Sutherland moves deferral of this bill for four months.

Is there any discussion on Mr Sutherland's motion?

Mr Hansen: Could I have the chief fire prevention officer for the city of Hamilton fire department come back, please?

The Chair: Is this on a discussion of the deferral motion?

Mr Hansen: Yes. I would like the opinion of the city of Hamilton, the assistant fire prevention officer, on the thoughts of the ministry of deferring this bill for four months.

Mr Peters: The four-month deferral would represent approximately the time it would take us to implement this at the municipal level, given that we have a new council, as most municipalities have, coming on stream. We would clean up some of the language, as we have heard today, and bring it before council some time in January. We are looking at approximately that time frame before it could be passed at the municipal level. I would suggest, not to commit the municipal councillors, that would seem to be a reasonable length of time. The four-month time frame, even at the provincial level—it is going to take some time after that. People are obviously still going to be at risk. What we are looking for is a method of getting the legislation, either at the provincial level or the municipal level, in place as quickly as possible to provide the protection necessary for these people.

1130

Mr Christopherson: On the motion for deferral, with the greatest respect, I have listened to the comments from the ministries and certainly, as a member of the government, am quite prepared to give, and lean towards giving, the benefit of the doubt, if you will, to the ministries where there seems to be some solid ground for it. But at best, I think the arguments we are hearing are that the province will be doing something down the road at some point that should encompass all, and perhaps more than, what is being proposed here.

I think my colleagues on the committee are expressing the fact that all it is really doing, in terms of the city of Hamilton's point of view, is inhibiting its ability to move forward on something I have heard no one speak against. Again, with all due respect to the process, and being a member of the government party, quite frankly I see no reason why we should not push this through, give Hamilton an opportunity to enact this and use the experience of what happens in Hamilton to benefit this kind of legislation.

Those of us from the Hamilton area would be able to participate in a much better fashion, and certainly with some experience from what has happened in Hamilton, when the government legislation comes through. I really have not heard anything that suggests to me that some kind of wrong would be committed were this bill to be enacted. I encourage committee members to please follow your instincts on this one and give Hamilton a chance to step forward and do what is right.

Mrs MacKinnon: I respect very much the motion Mr Sutherland has put forward, but I will not be able to live with myself if, within four months, even one person is injured or dies or there is even the loss of property in Hamilton. We are now in what is often called—I am sure the fire marshals and fire safety people who are here can back this up—the fire time of year. I would really like to see Hamilton have this lead and go ahead with it. I could

not live with myself if I ever heard of a death in Hamilton or any other city, but especially Hamilton, now that we know it has been so progressive.

Mr Sutherland: My only comment in response to what Mr Christopherson said about "somewhere down the road" is that we have had a very strong indication from the deputy fire marshal and the Ministry of Housing official that it is not a long way down the road. The consultation is done. The regulations are being drafted and are going to come forward in the next few months. That is why I have put forward the motion to defer for four months, because it is close to being near the finished process.

Mr Philippe: Just a clarification: The draft regulations are drafted. It is a matter of a minor cleanup.

Mr Abel: Can the ministry give us any indication when this legislation will be coming forward?

Mr Philippe: As a civil servant, I can address the time frames to put it forward. As I indicated, we are very close to having the final regulations. We have been in discussion with our legal staff and legislative counsel. That is how close we are with that material.

The Chair: All in favour of Mr Sutherland's motion? Opposed?

Motion negatived.

The Chair: Are the members ready for a vote on Pr53?

Mrs MacKinnon: I have an amendment.

The Chair: Mrs MacKinnon moves that subsection 2(2) of the bill be amended by striking out "any hearing-impaired tenant" and substituting any "tenant who is deaf or hard of hearing."

Motion agreed to.

I would like to propose an amendment to subsection 2(2) of the proposed bill in reference to my earlier comments. This is not written. I apologize. This is something that came up during the discussion. Our ever-efficient clerks have already taken care of that for me. I appreciate that.

Mr Abel: I move that subsection 2(2) of the bill be struck out and the following substituted:

"2(2) A bylaw under clauses (1)(a) and (b) may require the owner to supply a smoke alarm that is suitable to warn persons who are deaf or hard of hearing, of the type described in the bylaw."

The Chair: Your amendment really makes Ms MacKinnon's amendment totally irrelevant.

Mr Abel: I wish I had time to word it a little better.

Mr Hansen: "Device."

Mr Abel: "Device" is what I was looking for—"an appropriate device" or "suitable device" is the wording I was talking about earlier.

The Chair: "A bylaw under under clauses 1(a) and (b) may require the owner to supply a suitable device which will warn tenants who are deaf or hard of hearing."

Is that the precise wording?

Mr Abel: Yes, I think having a "suitable device" is a little clearer—"require the owner to supply a suitable device to warn tenants who are deaf or hard of hearing."

The Chair: Is that suitable or should we break for a couple of minutes to get the appropriate wording?

Mr Abel: Could I please have a couple of minutes to work on the wording?

The Chair: We will recess for two minutes.

The committee recessed at 1138.

1145

The Chair: I call the meeting back to order.

Mr Abel: I thank the committee and the presenters for the time allotted to me to look for the proper wording on this amendment.

The Chair: Mr Abel moves that subsection 2(2) of the bill be struck out and the following substituted:

"(2) A bylaw under clauses (1)(a) and (b) may require the owner to supply a device capable of warning tenants who are deaf and hard of hearing of the danger of fire.

"(2.1) The bylaw may prescribe the type of device required under subsection 2."

Motion agreed to.

Section 1 agreed to.

Section 2, as amended, agreed to.

Sections 3 to 8, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

The Chair: Thank you very much, Mr Christopherson and witnesses.

With the committee's consent, we would like to proceed with Bill Pr81 in the absence of its sponsor, Mr O'Connor. Do we have consent?

Agreed to.

TOWN OF WHITCHURCH-STOUFFVILLE ACT, 1991

Consideration of Bill Pr81, An Act respecting the Town of Whitchurch-Stouffville.

The Chair: Can I have the representatives from the town of Whitchurch-Stouffville? Could you introduce yourselves.

Mr Pilla: My name is Louie Pilla. I am appearing as agent and solicitor for the town of Whitchurch-Stouffville. With me is Mr Robert Bennet, director of building for the town of Whitchurch-Stouffville.

Bill Pr81 is a bill empowering the town of Whitchurch-Stouffville to pass bylaws regulating and prohibiting the dumping of fill within the town.

In the past, the town has experienced problems with indiscriminate dumping of fill, which creates certain drainage problems and causes unsightliness within the town. It has also led to cost being incurred by the town to deal with these problems. The town's goals of maintaining the aesthetic beauty of the rural community and the health and safety of its inhabitants are being threatened by the indiscriminate dumping.

Currently, there exists a gap in the law regulating and prohibiting the dumping of fill. The powers of the town of Whitchurch-Stouffville, which are based on the Regional

Municipality of York Act and the Municipal Act, do not provide for the town to regulate and prohibit such activity.

The Ministry of the Environment is unable to regulate this activity due to the exemption of inert fill under part V of the Environmental Protection Act, which is what this act will deal with.

This application is based on two precedent acts. The first is An Act respecting the Town of Richmond Hill, which received royal assent December 20, 1990, and the second is An Act respecting the Town of Oakville, which received royal assent June 13, 1991. The powers contained in Bill Pr81 will enable the town to ensure aesthetic beauty in the rural community of the town of Whitchurch-Stouffville and the health and welfare of the inhabitants. Therefore we are asking this committee for their support of this bill.

1150

The Chair: Thank you very much. Before we entertain questions from the applicants, it is noted that there is at least one opponent or interested party to the bill. Is that person present?

Mr Pilla: Mr Chairman, I spoke to that objector, Mr Bruce Arrowsmith, yesterday, and he indicated he had no objection to the bill itself.

The Chair: I am sorry, are there parties present? No? Thank you.

Mr Pilla: Mr Arrowsmith indicated he was content with the act proceeding. It was more the nature of how it would be enforced, or how the town would use the powers under the act. We have agreed that his concerns would not be violated or objected to with the passing of this act. He has an objection on behalf of developers who deal with a lot of fill, either being brought on to a construction site or being carried away from, which is dealt with through subdivision agreements or site agreements with the town.

Mr Sola: You mentioned that there are two precedents for this bill. How does this bill go further than those precedents? Or is it within the bounds of the previous two bills?

Mr Pilla: It is within the bounds of both of those acts. It is based on the wording of those acts.

Mr Sola: Then I have no objection.

Mr Hansen: I think the city of Toronto already has such a bylaw, which was passed by this committee just six months ago, if I am not mistaken. Could I ask the clerk, is this close to the same type of bylaw?

Mrs Gray: I am Linda Gray from the Ministry of Municipal Affairs. There a number of municipalities which have very similar legislation by private bill: Toronto, Richmond Hill, Brampton, Oakville, I believe, and a number of others. The ministry is looking into general legislation on this issue and a task force is being formed in the new year to look at the various aspects of it. It involves a number of ministries: Natural Resources, Environment and our own, but in the meantime the ministry does not have any objection to the private bill process continuing. Those municipalities that want to have legislation on this issue are free to go ahead.

Mr Hansen: I am glad to hear that, because I have a couple of municipalities in my riding taking a look at a similar bill. Since we discussed the last bill from the city of Toronto, I guess we are in the same circumstances with this particular bill, to get going on it so that these municipalities will have the coverage until proper legislation comes in.

Mr Sutherland: I think the comments have been made from the government's point of view.

The Chair: Are we then ready for a vote?

Sections 1 to 6, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

CITY OF TORONTO ACT, 1991

Consideration of Bill Pr85, An Act respecting the City of Toronto.

The Chair: Mr Marchese I believe is on his way, but given the hour, I am wondering if we can have again the consent of members present to proceed with Bill Pr85 without the sponsor being present. Is there agreement?

Agreed to.

The Chair: Could I have the representatives of the city of Toronto? Please identify yourselves.

Ms Foran: My name is Patricia Foran. I am the deputy city solicitor for the city of Toronto. I will be presenting Bill Pr85. With me are Mr Ken Bingham, chairman of the board of management of the Balmy Beach Park, and Mr Gary Baker, president of the Balmy Beach Club.

In 1903, the Legislature passed An Act respecting the Town of East Toronto and Balmy Beach Park, which basically established a park in the town of East Toronto to be known as Balmy Beach Park. That act placed the general management, regulation and control of Balmy Beach Park under the jurisdiction of a board called the board of management of the Balmy Beach Park. The board of management has continued in existence since 1903. In 1908, the town of East Toronto was annexed to the city of Toronto and the city of Toronto has since that time owned all of Balmy Beach Park.

Since 1903, the special legislation governing the board of management of Balmy Beach Park has provided that the board of management shall be a body politic incorporate, and shall be composed of the mayor and six other persons appointed by council on nomination of the mayor. Since 1903, it has been specifically provided in the special legislation that, other than the mayor, none of the other six members on the board could be members of council. But it is also provided that of such six members, two must be residents on land in the former township of York included in plan 406, which is an old plan registered in the registry office for the county of York, two must be owners of land in the said plan 406, and two must be residents of the part of the city of Toronto which was the former town of East Toronto.

The council is applying for legislation today to delete the ownership requirements for membership on the board and to provide that members of the board must be qualified to be elected as members of council. As well, because

of the passage of time, reference to the old plan 406 is being deleted and we will just refer to the specific geographic area by incorporating existing streets.

Basically all that Bill Pr85 does is as set out in the explanatory note. It enables the city to change the composition of the board. It takes away the requirement that certain members of the board must be owners. It provides that the members of the board cannot be members of council, but must be eligible to be elected as members of council.

Mr Bingham and Mr Baker may answer any questions the committee may have.

The Chair: Are there questions for the applicants?

Mr Sola: Are there any objectors to this bill?

Ms Foran: I have not been made aware of any objectors. Nobody has contacted me, and I am not aware of any on the committee. We did the advertising and there has been no objection.

Mr Sola: Then I move that we vote.

The Chair: Are there any interested parties who are objectors? Seeing none or hearing of none—

Mr Sutherland: Municipal Affairs supports this.

The Chair: Thank you. All in favour of the vote?

Sections 1 through 3 agreed to.

Preamble agreed to.

Bill ordered to be reported.

1200

CITY OF TORONTO ACT, 1991

Consideration of Bill Pr86, An Act respecting the City of Toronto.

The Chair: Moving on, we are now considering Bill Pr86, An Act respecting the City of Toronto. Ms Patricia Foran is before us again. Ms Foran, could you introduce your colleagues.

Ms Foran: Mr Vic Nishi is with the city of Toronto environmental protection office; Mr Gordon Chan and Pam Scharfe are with the city of Toronto department of public health.

Bill Pr86 would enable the city to pass bylaws for regulating the disposal of ozone-depleting substances and the testing, servicing and repair of products, material or equipment containing such substances.

I do not think there is any need for me to deal with the urgency of global control and the elimination ultimately of all ozone-depleting substances, nor do I think it necessary to remind members of your committee of the steps which have been taken and are being taken by the government of Canada and the government of Ontario towards the reduction and ultimate elimination of ozone-depleting substances.

Since 1988, city council has sought to do its fair share in the global crusade against ozone-depleting substances. This was before either the federal or the provincial regulations were passed. In fact, in 1989 city council passed a bylaw under the general Municipal Act powers and in 1990 passed a successor bylaw. However, the coming into force of the latter bylaw has been phased because in the interim there have been federal and provincial regulations brought into existence. Some of them are not in force and, furthermore, the city council needs legislation in the form of Bill Pr86 to ensure its bylaw is enforceable.

The city has had its staff work with both federal and provincial staff in an effort to ascertain what role the city of Toronto could play in this important global project. Given the nature of the federal and provincial government involvement one might ask, "What is the city's role?" Basically the city at this time wishes to make a contribution towards resolving the global problem by passing bylaws which would fill in some gaps that exist now not covered either by federal or provincial regulation. These bylaws would regulate the disposal of equipment or products containing ozone-depleting substances by delivery to recovery sites, disposal in accordance with municipal systems or the draining and recovery of the offending substances before disposal.

The city's bylaw will also deal with disposal of vehicular air-conditioning units, the service or repair of equipment containing ozone-depleting substances and the testing or servicing of fire extinguishers and fire extinguisher systems.

The city's bylaw will deal only with those things not covered by federal or provincial regulations. If and when either the federal or provincial governments step into an area covered by the city bylaw, there is no doubt the regulations passed by the higher level of government would prevail.

I shall pause and let Mr Vic Nishi of the city's environmental protection office tell you a little bit about the background of Bill Pr86 and what the city proposes to do when the bill is passed.

Mr Nishi: I would just like to go back a bit and fill in some of the details in the process around the development of this bylaw. As Pat mentioned, this is actually the second bylaw city council has passed to regulate control of CFCs.

The first and original bylaw passed in 1989 prohibited the manufacture, sale and emissions of CFC and CFC-containing products within the city of Toronto. It represented a very wide and powerful bill. In the interim between passage of the original bylaw and the coming into force of the sections, both the provincial and federal levels of government moved and took significant steps to reduce and control the emissions of CFCs and CFC-containing products. This forced the city to review what the provincial and federal initiatives were, and to reassess its own role in CFC control.

After that review the city concluded that many aspects of the bylaw, especially those pertaining to the manufacture and sale of CFC-containing products, were adequately covered by the various federal and provincial legislative initiatives. However, the city identified a potential municipal contribution in the areas of refrigerant release to the atmosphere during servicing, white goods disposal and the testing of room-flooding fire extinguishers.

These were seen as areas in which the city's role could be made complementary to the province's own CFC control strategy, so focusing it a little more clearly on what the municipality felt was a potential role it could fulfil. We examined the provincial strategy in close consultation with ministry officials who were at the same time developing

and fleshing out their own regulations to follow up on their legislation. As we saw the provincial legislation and regulations in this area, it was designed to control the CFC releases during servicing and disposal by creating a system, an infrastructure, that would make recycling of CFCs efficient and easy, and then encouraging the services and technicians to access this process.

During those discussions with the Ministry of the Environment we asked why there was no enforcement or prohibition of emissions. It was indicated to us—and I think very reasonably—that enforcement of prohibition would be far too difficult to do on a province-wide basis. It was explained to me quite eloquently that what you can do in Toronto is one thing. If you try to enforce something like this at a level such as, say, MacTier, Ontario, where you have one service person who perhaps sees a refrigerator once a week, and where roughly 20% of all refrigerators actually require the removal of CFCs, it was quite clear to me that to try to enforce an emissions ban on CFCs would be very difficult at that level.

However, we acknowledged that the situation in Toronto is very different because of the high concentration of population, refrigerators and refrigerant systems. In the city of Toronto it was far more feasible to enforce an emissions ban. At the same time, you have to acknowledge the total quantity of CFCs across the province and looking at the percentage of CFCs actually found in the city of Toronto, we felt that effort towards enforcement would reap much greater returns in the city of Toronto.

Earlier, on another private bill, the possibility of a pilot project was discussed. Looking at the municipal role as conducting almost a pilot project to see how things can work, that is exactly how we discuss with the ministry our CFC regulation and enforcement: as a pilot project. Because the city of Toronto already has a network of health inspectors in contact with people at the commercial level, that expertise and those contacts could equally well be applied towards the enforcement of a bylaw on emissions.

We also felt that, as a pilot project within Metropolitan Toronto—as the city of Toronto is just one of several municipalities—the effectiveness of emission controls could be examined in that context: the city of Toronto with emission controls, and Scarborough, Etobicoke and North York without emission controls. Were emission controls having any significant difference on how the province's infrastructure for recycling was being accessed?

1210

This is the way we are approaching the committee today, in terms of providing something clearly complementary to what the province has put together. The province has a recycling infrastructure that is critical for any enforcement effort on our part. What we are doing is in effect creating more pressure for people to access that recycling infrastructure, and in doing so our hope is that we will be able to reduce the overall CFCs emitted into the atmosphere.

One problem I hear quite regularly from service technicians who want to do well is that if they do well it costs them money. If they go to the effort of buying the equipment to recycle the products; if they take the extra time required to recycle the products and do what is considered right for the environment they are penalized because it is not a level playing field. They are penalized because there is no assurance that their competitor is going to do that.

It was made very clear to me by people in the industry that the most critical aspect in cost is time. If it takes an extra half an hour or an hour to go through the effort of recycling CFCs, that makes it a prohibitive venture for any small businessmen.

When we are talking about a recession right now, we want to allow these people to do what is best for the environment, not put them out of business. In that respect we feel we are offering a pilot project to the province which at the same time will reduce the CFCs being emitted into the atmosphere. As we all know, any CFC emitted into the atmosphere today will be up there 150 years from now, still reducing the ozone layer above our children and even our children's children.

Ms Foran: I would also like the committee to hear from Pam Scharfe of the city's department of public health, who will deal briefly with the city's plan in respect to the implementation of Bill Pr86.

Ms Scharfe: Thank you, Pat, and thank you, Mr Chair and committee members, for this opportunity to appear before you.

The department of public health will be responsible for an implementation strategy. One of the first priorities for the department will be to ensure that the day-to-day operations of the corporation of the city of Toronto are not contributing to the release of ozone-depleting compounds to the atmosphere illegally.

The department would first contact the superintendent of heating, ventilation and air conditioning for city-owned property, document the name of the heating and air conditioning service company, the written agreement to abide by the bylaw when servicing city-owned equipment, and the date when the contract expires. We would then reinterview the superintendent when contracts are renewed and new contractors are hired.

We would also meet with business managers of city departments occupying rental offices to accommodate that future leases include clauses which specify that contractors who service refrigeration and air-conditioning units are to comply with the bylaw. We would also conduct walk-through inspections of the fleet services air-conditioning repair facilities twice per year, in the spring and the summer, with the fleet services supervisor to monitor the refrigerant reclamation procedures.

We would also notify the director of materials, management and sanitation that the department of public works and the environment must comply with the bylaw when disposing of old refrigerators and freezers and monitor the quantities of refrigerant reclaimed each month.

Last, we would contact environmental representatives from the federal, provincial and municipal governments of Metropolitan Toronto as a group to propose the purchase of a reclamation device capable of removing and capturing the CFC-11 from polyurethane foam insulation refrigerators

and refrigerators destined for disposal from the metropolitan area.

Turning to education and promotion, we plan to make presentations to promote the bylaw, which would be given at schools, community colleges and any other facilities which offer courses in refrigeration and air-conditioning. Service associations such as the Heating, Refrigerating and Air-Conditioning Institute of Canada, the Refrigeration Service Engineers Society Canada and the American Society of Heating and Air-Conditioning Engineers would be contacted and efforts to attend seminars as presenters would be made. We have to date already made some presentations to some of these companies or associations.

Public relations visits would be made to high-profile companies such as large supermarket chains which may want to publicize that their equipment is serviced by environmentally friendly service contractors. The use of media could be advantageous in reaching a large segment of the population as quickly as possible to promote the intent of the bylaw.

Lists of recovery or reclamation equipment available, reclaim companies available and authorized depots would be distributed by the department to all relevant people who fall under the jurisdiction of the bylaw. Reclamation equipment on these lists would meet the air-conditioning and refrigeration institute's specifications to avoid the illegalities of recommending any substandard machine.

The department would contact educational institutions such as high schools and community colleges and service associations for the refrigeration industry to attend one of their classes or meetings for the purposes of promoting the bylaw through presentation. We would select presentation material suitable for the audience involved. We would establish contact with managers of high-profile companies such as supermarket chains and fast food outlets to try to attend one of their staff meetings in order to promote the city's initiatives in reducing the emissions of ozone-depleting compounds.

Last, we would suggest at the company meeting that if the contractors who service their equipment are environmentally conscious, the public may want to hear about it and may wish to support a company that is trying to protect the ozone layer from further destruction.

For chlorofluorocarbon users, the implementation of the bylaw will have to contend with complexities brought about by being part of such a large metropolis.

There is at present no mechanism to monitor the servicing of equipment which contains regulated compounds. Ideally, to identify the service people involved, the equipment owners would be interviewed to ascertain who maintains their equipment, and a computer data bank would be created by the department. However, the inputting of every single establishment in Toronto is not practical in today's economic climate.

The department would therefore send written notification to operators in Toronto who use air-conditioning and refrigeration equipment, advising them of their legal responsibilities when such equipment is being serviced. Large operations such as shopping centres, office towers, department stores, supermarket chains, restaurant chains, etc, would be notified first. We would then interview maintenance supervisors to document the type of equipment in use, the type of refrigerant employed, the frequency of repair and whether recovery equipment has ever been used on their units.

Dealing with the major service people, we would collect data, and we would start by sending out written notification to the major contractors who service the air-conditioning and refrigeration equipment in Toronto, advising them of the intent of the bylaw and the responsibilities under this bylaw. We would also, as a follow-up, send written notification to the contractors inquiring about the type of recovery equipment used, the types and quantities of refrigerant recovered or reclaimed in the city of Toronto, and the depot which receives the used refrigerant. We would enter the data collected and monitor the success of the city initiatives with instantaneous readouts and graphic representations. Companies involved in producing or reclaiming CFCs would be contacted on a regular basis, perhaps every two months, to encourage them to set up a network for the collection of used refrigerant if they have not already done so.

In terms of white goods, shops in the city of Toronto where domestic refrigerators and freezers are repaired would be inspected for the presence of refrigeration recovery reclamation equipment.

Turning to fire protection equipment, the fire safety industry appears to be responsible and conscious of the phaseout of ozone-depleting compounds. However, fire prevention companies would be contacted to be sure they are aware of the requirements of the bylaw and to periodically peruse the records to monitor halon consumption.

Dealing with demolition projects, the department would contact the major demolition contractors to promote the recovery of bank CFCs and/or halons and to advise that the bylaw requires the draining of recovery of CFCs and halons.

Ms Foran: I also have with me Mr Gordon Chan of the department of public health, who can answer any questions dealing with the enforcement of the proposed bylaw, and two representatives from the city's department of public works and the environment, Mr Don Young and Mr Ted Bowering, who could deal with the city's recycling program if there are any questions.

The Chair: Thank you. In addition, are there other interested parties to this bill? We have heard of no objectors.

1220

Ms Foran: I have heard of no objectors.

Mr Sola: I would like to pose a question regarding inspectors. It says the council may appoint inspectors for the enforcement of the bylaw, but it does not give any qualifications or credentials that the inspectors will have to meet in order to be able to do this job. What criteria will you be requiring?

Ms Foran: At this time, as you have heard from the people in the department of public health, it is proposed that the city would use the public health inspectors who have been appointed as such under the Health Protection and Promotion Act, simply because those are the people

who are already in contact with the industries. They already go in to inspect, they are a working group and we have them set up across the city in different areas. That would be the quickest way. They would be the ones who would be doing it, so it would be the people who are now called public health inspectors who would also be given the additional responsibility, which, after all, is not only an environmental matter but is a public health issue as well. As you can see, the city is putting this not under its department of public works and the environment, but rather under the department of public health. It views it, first and foremost, as a health issue.

Mr Sola: For the right of entry, you say "at all reasonable hours." What would that mean—operating hours or scheduled hours for the inspectors?

Ms Foran: We are coming forward with some amendments in respect of the rights of entry. There are some motions which arise out of concerns raised by the Deputy Attorney General. Therefore, rather than look at what is set out in the bill in so far as rights of entry are concerned, if you would look at what is set out in regulations, those are the specific amendments coming from the Ministry of the Attorney General, and I understand that the ministry is in agreement with these amendments.

Mr Sola: One further question. Where you refer to the justice of the peace, you say "without notice," that no notice is required to go before the justice of the peace as far as the employer, owner or occupier of the business is concerned. Is this common practice?

Ms Foran: That is in accordance with what is now set out in the Provincial Offences Act.

Mr Hansen: I have a question. Is halon still being used in the fire system or is that being phased out? Mainly it is used in areas where there are computers and where water cannot be used, or is there another product being used to replace halon?

Mr Chan: The existing halons that are in the systems right now are remaining. They are a very expensive item to replace. There has been a tightening up of the fire industry not to test their systems any more in terms of full-flooding, just to see if it works type of thing. They are basically just testing for the integrity of the room now, and the only time halons will be released would be in an actual fire.

Regarding the use of certain gases to test the rooms, there are some replacements that are, in terms of pressure and flooding ability, equivalent to the halons. That is what has been coming through the industry from people like Du Pont, which is trying to get some replacements for the testing process, but as far as actual compounds to replace the halons, I do not think they would come up with anything better. The halons themselves, by their structural formula, are very, very stable and are able to interrupt chemically the progression of a fire, so it is extremely efficient to have this type of compound.

Mr Hansen: I think it is a very important bill here in Toronto, where a lot of head offices are equipped with computers which will be using this particular chemical. I think MacTier, as you mentioned, would be completely different. There it might be maybe just the municipal office that would require a bylaw like this, although I have had people come forward in my riding on this particular issue, saying that the government has not moved ahead in this area. I welcome the suggestions and the bill and seeing the city of Toronto taking the leadership role.

Mr Nishi: I want to make clear that the bill is only designed to restrict the emissions during testing. I can say from speaking to people in the industry that because of the high cost of halons, much of that is apparently already being done for economic reasons anyway.

Mr Sutherland: While the Ministry of Municipal Affairs has no objections to the bill itself, the Ministry of the Environment does have some concerns. We have some representatives here who are going to make some comment, and as referred to, I believe, there are some proposals coming forward for some changes from the Ministry of the Attorney General just on wording in terms of what time inspectors should be going in. Could I ask the representatives from the Ministry of the Environment to introduce themselves and comment on what their concerns are at this stage.

Ms Scott: My name is Adrienne Scott. I am with the legal branch of the Ministry of the Environment, and joining me are two ministry staffers: George Rocoski, the manager of the waste management policy section, and Keith Madill, the senior project specialist for CFC regulation for the province. Perhaps they might be of some assistance to you in appreciating the ministry's position with respect to this proposed bill.

As you, Mr Chairman, and the members will appreciate, this bill being put forward by the city of Toronto is in the nature of an environmental protection bill. Obviously the Ministry of the Environment has an interest in the bill and wants to make sure the committee is fully aware of our position.

It is the ministry's position that the committee should defer final consideration of the bill today. We are requesting this deferment of the bill for the following reasons:

To begin with, the ministry would like to have more time to consider the bill. It appears the bill has progressed rather expeditiously through the private members' bill process, and it is our opinion that the ministry has not had sufficient opportunity to explore all of the ramifications associated with it.

Perhaps more important, Mr Chairman, it is clear from the text of the proposed bill and the submissions made today that the city of Toronto bill is intended to give the municipality jurisdiction to regulate CFC releases from air-conditioning and refrigerant systems. There is no question that these are a major source of CFC releases into the environment.

As we understand it, the city is contending that there is a need for its involvement in this area, as it is not being covered by federal or provincial legislation and regulations, and I will touch on that in a minute. I can advise you, Mr Chairman, and the members that the ministry is not in a good position at this time to respond to this particular aspect of the bill, particularly the concerns and the

proposal for the city to be involved in regulating servicing and venting of refrigerant systems.

By way of background, I think I should make it very clear that the province has a CFC reduction goal, which is to reduce Ontario's consumption of CFCs by 50% by the year 1993. I should make it very clear as well that we have been working towards that goal. In fact, Ontario was the first province to regulate ozone-depleting substances in Canada when it banned the use of CFCs in aerosols and foam packaging in 1989.

It goes without saying that the ministry is also concerned about CFC releases into the environment, releases being somewhat different than CFCs being used in the production of certain products. Again, one of the key sources, as the city has identified, is ozone-depleting substances from discharges from refrigerants and air-conditioning systems.

I should indicate that the ministry has been involved in regulating these CFC releases, and this is where the important part comes in. Basically at this point the ministry is at a watershed. We are looking at the whole CFC picture. We are in the process of examining what we have done to date and where we are going to go in the future with CFC controls and bans. Part and parcel of that is the whole area of the control of CFC releases from refrigerants and the need for a uniform provincial scheme. In fact, I might inform you that a major policy paper on the whole issue of CFC regulation provincially has been prepared and will be put before senior management and the minister over the next few weeks. Quite possibly the province will be covering what the city proposes to do and more.

I suppose that relates to the comment of the city's representatives that they want to complement the provincial and federal schemes. It seems premature for the city to make this proposal at this time, as we are at the stage where some major and serious initiatives are being put forward by the ministry and hopefully will be solidified within the next month. However, at this stage today we do not know what the outcome of that initiative will be. Essentially that is the reason behind our request for a deferment of the bill.

1230

On a related note, I could perhaps indicate that once we know where we are going with further controls and what the future direction of CFC regulation will be, we will have a better idea of the role the municipality can play in terms of complementing what we are doing. Perhaps we could even assist the city in drafting a bill which would do that and which would allow it to fulfil its potential role in this area and assist us, because we certainly want to encourage any creative solutions with respect to CFC controls. There is no issue on that. There is definitely room for some co-operative and complementary effort. In light of the policy paper which is going forward to the minister within the next few weeks, as a matter of fact, we feel it is premature for the committee at this time to consider the bill.

The Chair: Are there any questions of ministry staff? Mr Sutherland, do you have a question of staff?

Mr Sutherland: No. Actually, I was going to put the motion on the floor right now for deferment.

The Chair: I believe that would be in order.

Mr Sutherland: Once you have a motion on the floor we can have debate on the motion, correct?

The Chair: I appreciate that but I believe it is appropriate to have full discussion with the staff on this presentation.

Ms Foran: It will depend on how long you are going to defer this for. We have been working on it since 1988. The Ministry of the Environment knows that. This is the very first objection. The bill was filed in September. Surely between September and November somebody from the ministry could have said they were bringing in some papers. It is exactly the same situation as you heard on a previous applicant today: We sit back, we wait and more damage occurs to the ozone. If we were going to defer it for two or three weeks and give the ministry the chance to discuss it with us, I would agree to that. But if we are going to defer it—once the break comes we may be looking at April or May or June. How much more damage can be done in the meantime?

As we said, the problems in the city of Toronto are somewhat different from the problems in the rest of Ontario, but at the same time it would give the government and the ministry some impetus, some plans and some knowledge as to how this would work in the city if it was deferred to December 17 or something like that where we have a goal to work with and the ministry can sit down with us and deal with it, or if there could be a fixed date, but not something two or three years from now. This bill did not proceed any quicker than most bills, if you look at the other bills that were before you today. It was advertised last June. That is six months ago. There has been no acceleration of this bill. It has been around for a long time. We just want to proceed. We would gladly sit down and discuss with the ministry what its concerns are and try to reach some compromises, not for the next meeting but maybe two weeks down the road. We would be glad to do that, but not to put it off for ever.

The Chair: Could we at least have the motion for deferral out on the floor? I believe Ms Foran was responding to the motion for deferral.

Mr Sutherland: I will put a motion on the floor to defer this until March.

Mr Hansen: That is what I was going to say, because if something is not done in the next four weeks, this committee only sits when the House is sitting so it would be the last week of March before we would be back.

Ms Foran: It could probably be back December 17. That is three weeks from today.

Mr Hansen: The ministry said a month.

Ms Foran: I am trying to be as reasonable as I can. I think if you put it off until March it probably will be back here, hearing the ministry's comments at the committee for the first time, which puts me in a very unfair situation because I do not know what the ministry is saying. I heard late yesterday maybe they would ask for a deferral; maybe they would be opposing it. That is not the way to deal with

one of the most important pieces of legislation coming before this Legislature.

Mr Hansen: Mr Chair, do you think we could see that we have this back on the agenda for December 17?

The Chair: The motion was to defer to March. Are you wishing to change that?

Mr Sutherland: That is right; the motion is to defer to March.

Mr Sola: I would put an amendment to the motion and make it until December 17th.

Ms Scott: I think the ministry would be in the same position on December 17, asking for a deferral, because of the way the scheduling has been done with respect to meetings with senior levels of the ministry and the minister. It will not be going before the minister, I understand, until December 19, so that really will not be of much assistance to us. I want to make it clear that in no way are we asking for a deferment of consideration of upwards of two to three years. I would wish—I think I am representing the ministry on this—that it be heard the first possible instance in the new year. There is no issue about that. Again, I really would like to stress that in light of the uncertainty and some of the major decisions that are going to be made in this area, it would be advantageous for everybody if this deferment was granted.

The Chair: Mr Sola, would you like your amendment to stand?

Mr Sola: Yes, I would. I do not see why this could not serve as a pilot project again to see whether it works and then the final province-wide legislation could have the benefit of the experience that Toronto has had, positive or negative, so that the final bill can be as smooth as possible and easier to implement.

The Chair: Are we ready to vote on Mr Sola's amendment which is to defer until the date of December 17? All those in favour of Mr Sola's amendment? Opposed? Mrs MacKinnon, are you in favour or opposed?

Mrs MacKinnon: It appears that I oppose the amendment.

The Chair: The amendment is defeated.

Motion negatived.

Mr Sola: Is the parliamentary assistant a member of the committee?

The Chair: Yes, otherwise I would have to vote, would I not?

Mr Sola: Right. I wanted to put you on the spot.

The Chair: On the main motion, which is to defer consideration of this bill until the end of March: All those in favour of the motion please signify? Opposed? The motion is defeated.

Mr Sutherland: You said the motion was defeated?

The Chair: I saw three hands raised: Mr Hansen's, Mrs MacKinnon's and Mr Sola's. Could I have a revote please? All those in favour of Mr Sutherland's motion that consideration of this bill be postponed until the end of March please signify. Opposed? Three to two. Thank you.

Motion agreed to.

The Chair: I am sorry, Mrs MacKinnon, I thought you had voted to oppose the first time around.

Thank you very much for your presentation. We are adjourned until notice.

The committee adjourned at 1240.

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Le mercredi 4 décembre 1991

Comité permanent des règlements et des projets de loi d'intérêt privé

Chair: Drummond White
Clerk: Todd Decker

Président : Drummond White
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 4 December 1991

The committee met at 1003 in committee room 1.

The Chair: We have two bills before us: Bill Pr110, An Act respecting the City of Nepean, sponsored by Mrs O'Neill, and Bill Pr25, An Act respecting the City of Toronto, sponsored by Mr Marchese.

Mr Marchese: It is my pleasure to introduce Bill Pr25.

Mr Sutherland: Mr Chair, are we not doing the Nepean one first?

The Chair: That was in order, but Mr Marchese was here at 10 o'clock.

Mr Marchese: I have a meeting at 10 o'clock, which has started already, so if I could introduce Bill Pr25 to the committee, I would appreciate that.

CITY OF TORONTO ACT, 1990

Consideration of Bill Pr25, An Act respecting the City of Toronto.

Mr Marchese: It is my pleasure to introduce Bill Pr25 to this committee.

The Chair: Could you introduce Ms Foran for the purpose of the reporter?

Mr Marchese: Actually, we have not been introduced to each other.

Ms Foran: My name is Pat Foran. I am the deputy city solicitor and I will be representing the city on Bill Pr25. I would be pleased to step down and wait for the Nepean bill if that is what you would like.

The Chair: I think we should proceed.

Mr Marchese: Mr Chair, if you will excuse me, I think members of this committee can deal with this bill. I need to get to my committee.

The Chair: Go ahead.

Mr Ruprecht: You mean we can do this without Mr Marchese?

The Chair: We certainly can, sir.

Mr Ruprecht: All right. In that case, I suppose we will try our best.

The Chair: With difficulty.

Mr Ruprecht: Yes, with difficulty.

The Chair: Ms Foran, can you introduce your colleagues?

Ms Foran: Bill Pr25 has five sections. Dealing with section 1 first, I would like to introduce the people who are here from the Toronto Humane Society.

Ms Kathleen Hunter is the executive director. Dr John Allen is the shelter veterinarian for the Toronto Humane Society. Mr Bill Bonner is the chief of investigations. I have two more witnesses from the Toronto Humane Society: Sandra Hyckie is the shelter manager and Christina Fox is the external relations manager.

Section 1 of Bill Pr25 would enable city council to pass bylaws prohibiting "the use, setting, maintaining, selling, leasing or distributing of leghold traps, snares and conibears within the city of Toronto."

Ms Hunter: Current legislation means that traps are readily available and freely used within the city of Toronto. In the past 24 months, nine animals have been brought to the Toronto Humane Society in leghold traps. This figure represents only a tiny fraction of the thousands of traps being set in Toronto, largely without safeguard or monitoring. To allow the sale and use of these devices in an urban area, where both people and animals are at risk, is clearly dangerous and irresponsible.

I see four major problems with the existing situation. First, traps are non-selective, posing a hazard to any living creatures, including children and pets. Second, the people who set the traps are, by and large, inexperienced users who do not know how the traps function. The danger of the traps, already considerable, is thereby increased. Third, so long as traps are available in the city, their availability will encourage their use by people who are either unaware of the possible illegality of this use or encouraged by their availability to believe that there cannot be anything wrong in using them. Fourth, enforcement is virtually impossible with the existing situation. The fines currently in place seem to serve as no deterrent.

The great tragedy is that there already exists a simple solution. Alternatives are available. Humane traps can be obtained from animal control in Toronto and will be monitored by it. The Toronto Humane Society will accept the animals and will relocate them, all of this at no expense and no danger to the user, his children, his pets, his neighbours, his neighbours' children and pets and urban wildlife in the locality at large.

I believe the legislation that Toronto is asking you to pass will provide a solution to the danger and irresponsibility of allowing the sale and use of traps to continue within our urban area. If it is passed, Toronto will be an example for other cities and towns across Ontario to follow. Please, give this proposed legislation your thoughtful consideration.

With us today are representatives from various departments at the Toronto Humane Society. Dr John Allen, our shelter veterinarian, will tell you more about the traps and trap-related injuries. Bill Bonner, our chief of investigations, will talk to you about enforcement problems. Sandra Hyckie, our shelter manager, will explain the alternatives that are available to people who wish to remove wildlife from their property.

I would now like to introduce to you Dr John Allen.

Dr Allen: I want to ask you to ponder some questions.

1. Have you ever been in a situation where your life was in danger?

2. Have you ever been forced to do something against your will where there is no way out?

3. Have you suffered excruciating pain and/or symptoms of suffocation at the same time?

4. Have you ever experienced extreme panic?

5. How would you like to be worth more dead than alive?

These are questions I hope none of you will ever be forced to face. However, they are very real occurrences even today within the municipality of Toronto.

Central to these questions is the whole issue of the use of leghold traps. I have brought along several examples of leghold traps which I will show you later. Before that, however, I want you to see several film clips surrounding their barbaric use. Please bear my previous questions in mind as you watch. I am sure your empathy will enable you to feel some of the same horror the innocent animals go through.

[Film presentation]

1013

Most people who see the previous film find it most upsetting, yet they can still remain detached from the "celluloid" reality. To show you how the brutality is promulgated by these contraptions, I have brought along three examples of leghold traps, all discovered within the boundaries of the city of Toronto. Each was brought to the Toronto Humane Society and all had animals in their jaws. Not every animal was dead.

The first trap to be demonstrated is the supposedly humane single-levered Newhouse trap. In a perfect world, the trap would snap shut immediately, trapping the animal. However, as we know, the world is not a perfect place and most animals are not positioned in such a manner that death is instantaneous. Instead, they are maimed and become involved in a death struggle, frequently hurting themselves trying to get free or chewing off the trapped limb. This is an appalling way to die.

The second type I want to show you is commonly referred to as the padded jaws type, whereby the rubber pads are steel-reinforced, supposedly to reduce injury. The term is actually a misnomer. The jaws spring together with such force that internal injuries are sustained; that is, broken bones, internal bleeding, organ damage. The purpose is not to kill instantly but rather to trap the animal. Think about my previous five questions. All of the emotions come into play with the animal, so much so that in many cases they chew off appendages caught in the trap or they struggle to death. Again, not a very pleasant way to end one's life.

The third trap I will demonstrate is the unpadded or bare trap. Not unlike the other two traps in terms of severity, the jaws close with such velocity that excruciating pain is inflicted on the victim. When I demonstrate this trap, imagine how devastating it would be when used on the flesh. Perhaps this is the worst of all three traps.

We have focused on animals as targets for these traps. However their use in a populated area brings up the question of who else might be victimized by these traps. Basically the answer is any person, man, woman or child, or domestic animal, household pet, etc, or wildlife coexistent in the urban setting, which happens to be in the wrong place at the wrong time. Thankfully there have been no reported personal injuries to date in Toronto for humans. However, that is not to say that an instance will not occur in the future. You saw three of the traps demonstrated. Imagine what havoc the device would play with an innocent child.

I have brought along some rather discomforting photographs of animals found in Toronto and injured by these traps. In each case the trap did not misfire but did not work in the manner in which it is supposedly intended. While some of the animals survived the maiming of the trap initially, some injuries proved to be fatal in the long term. Imagine the pain suffered by, first, the raccoon whose face was caught in a single-levered trap, euthanized due to the severity of the facial injury. The second picture shows a squirrel who tried to chew his leg off to escape the single-levered leghold trap. The third shows a cat whose foreleg was skinned and the bones cracked by the single-levered leghold trap.

All this suffering is unnecessary. Inhumane trapping should not be an integral component of life in Metropolitan Toronto. It therefore raises the questions: (1) Why have traps been set in Toronto? (2) Why can you purchase traps in the city easily and without a licence? (3) What responsibility are we taking as citizens to ensure that further suffering and/or loss of life will not occur in the future?

Our position at the Toronto Humane Society is that inhumane traps are unnecessary, so much so that we support the concept of a trap-free zone with the exception of humane traps for wildlife removal. Gone are the days when trapping was a cornerstone of our economic life, and leghold traps should be abolished.

I would now like to turn the presentation over to Bill Bonner, our chief of investigations.

Mr Bonner: First I would like to say the enforcement problem associated with easily obtaining these traps is a real problem with the Toronto Humane Society and also, I would think, for the police department and any other designated bylaw enforcement officer within the city of Toronto. Most of these traps are usually found in areas where people will not disclose their whereabouts. They also indicate they do not know who owns them, although they are on their own lands. In the case of most animals we have brought in, the people indicate they were out trying to trap a skunk or a raccoon or a squirrel and in fact they are trapping more domestic animals, mostly cats.

If we are to stop the use of these traps, it must be written into law that any bylaw enforcement officer within the city of Toronto may, upon finding a device, issue a summons for a court appearance to the individual or the person in charge of that property. We have found that mainly they are found in ethnic areas where people will not admit that they know they are illegal. They have used them for hundreds of years and brought their traditions from their home country. Some studies that were done by the humane society in the United States indicated that for every 10 targeted animals captured, 14 non-targeted animals were.

A 1974 study conducted by the humane society in the United States and published in the Journal of Wildlife Management, shows they were having problems with coyotes

going after sheep. Out of 1,205 animals trapped, 138 were coyotes. The rest were golden eagles, hawks, rabbits, 63 domestic animals and, quite ironically, the rest were sheep which they were trying to protect from the coyotes. So we have a very small number of coyotes, actually less than a sixth.

1020

If we allow these traps to continue to be sold and maintained within a city—as Dr Allen pointed out, we have not had an incident where a child has accidentally come across one of these traps, but they are found everywhere, High Park, alleyways; everywhere you can think of where you could set a trap, they do.

If we allowed any designated bylaw enforcement officer within the city of Toronto to seize—and I realize the problem of searching individual residences or outside is a very difficult one. We should have the right to enter a property, to seize any trap found on that property and to make the owner of the property or the person in possession of that property responsible for having it there. Unfortunately, the Toronto Humane Society investigation team is not designated as bylaw enforcement officers. We work strictly under the Criminal Code as private citizens. Hopefully that will change with the new animal welfare act which we understand will be coming shortly from the Ontario government.

In closing, I would like to ask if you think the current fine of $53.75 under the city of Toronto's bylaw 644-78 is a deterrent. I feel it is not. If we are going to stop the use and the setting and the possession of these traps, we must look at the fines. Most people admit a large fine may deter them from using these traps. I suggest we think of raising the fine. Also, I believe we should publicize the granting of an amnesty to all people within the city who have these traps, to bring their traps in, over a reasonable amount of time, for disposal to the city or to the humane society or the Ministry of Natural Resources, and allow them the time to get rid of these traps. Once this amnesty period is over, hopefully the bylaw could be enforced.

I appreciate your time and I thank you.

Ms Foran: I now call on Sandra Hyckie, who is the shelter manager from the Toronto Humane Society, who will demonstrate what is known as a humane trap.

Mr Ruprecht: Mr Chairman, did you decide that we could ask questions after the introductions, or should we ask questions now, while they are fresh in our minds?

The Chair: Perhaps if you can make a record of your question, you could pose it after the presentation is finished. I believe you are almost finished.

Ms Foran: Yes, we are just about finished.

Ms Hyckie: After viewing the film and witnessing the horror of these unnecessary traps, I hope you will agree there must be a humane alternative. I have brought an efficient humane trap with me today. It is the box trap. Anything that is viewed as a nuisance animal can be humanely trapped in this device. It is quite a large trap, but I will try and show you how it operates.

This is one that animal control uses quite frequently to catch raccoons, nuisance cats, the odd time even a dog, believe it or not. I have a smaller one as well. They even make them for a mouse or a rat. They are quite humane, very effective and nobody gets hurt at all.

Basically it sits on a balance here. The animal walks in and steps on this plate that is sitting up. You usually bait it with food, something that they enjoy eating. As soon as they touch it, the trap will fall down and they cannot get out. They also cannot hurt themselves because they cannot really get their noses or feet caught.

Ms Hunter: Do you want to show them the other one?

Ms Hyckie: Yes, I can. This is another trap the Toronto Humane Society uses. It comes in large sizes, mouse size, any size, and it works on the same principle. Basically it balances here. The plate is baited. The animal walks in, steps on the plate. The trap drops and locks. Again, no one is hurt. The animal is brought in, and it is easy to release, even without getting bitten, and the animal is relocated or whatever.

This device has been around for many years and is very popular in the city of Toronto. The city of Toronto animal control sets at least 20 box traps at any given time. Last year alone, animal control humanely trapped 191 felines, 167 raccoons and 29 skunks at no charge to Toronto residents. Not only do they set the trap, they also monitor it and bring the animal to the Toronto Humane Society for relocation or, in the case of felines, adoption.

All a Toronto resident has to do is pick up the telephone and call animal control. Animal control will even assess the problem on the property and make recommendations on how to repair the property so the animal does not enter the property again. Even outside Toronto the box trap is available through your municipal pound for a small rental charge of $5.

It is the Toronto Humane Society's view that if there is a humane alternative, it should be enforced. Not only does it eliminate the nuisance animal humanely, it gives that animal a second chance. It is the Toronto Humane Society's goal and objective to stop unnecessary suffering. We believe they deserve consideration. One unfortunate animal that wanders into a steel leghold device, with the pain and suffering it endures, is one animal too many, especially when there is an alternative, an efficient humane alternative.

Ms Foran: That is our presentation. We could answer questions now or deal with the ministry's position, whatever you wish.

The Chair: Thank you, Ms Foran. Before we ask questions, I understand there was one objector. Is there alternative testimony or is an objector present? Seeing none, Mr Hansen.

Mr Hansen: I guess I would violate this particular bylaw you want to impose because we have mousetraps at home. Does this not cover, under conibear, a mousetrap, so there would not be the sale or the possession of a mousetrap in Toronto with this bylaw? Is that correct?

Ms Hunter: I suppose that is true. There are alternatives for mousetraps too.

Mr Hansen: The other thing is that my uncle was a trapper north of Sault Ste Marie—there were some on my mother's side of the family who were pioneers—and I have the traps he used. They hang on the wall of my living

room here in Toronto. They would no longer be able to hang on the wall in my living room.

Ms Hunter: I am sure some way could be arrived at where you could have traps that you were not going to use, just for historical value. We have traps for demonstration which are essentially probably outside the law, or would be, but we have labelled them as such and we clearly are not going to use them for anything else.

Mr Hansen: You were talking about trapping by some of the ethnic groups. The traps I have hanging on the wall came from Finland. It is a historic leghold trap, yet it is still usable. If I go back to my uncle's ways and I want to trap, as you say, something in a valley, then I could take that trap off the wall and use it. I am just asking these questions on how you cover these. I know you are looking at making them illegal within the city of Toronto where there are children and everything else.

Ms Hunter: Yes, essentially that is what we are here today for.

Mr Bonner: Mr Hansen, I believe the Ministry of Natural Resources demands that if the trap is dicovered, it is either welded shut or something. Therefore it could still be in your possession, I believe, but I am not 100% positive of that.

1030

Mr Ruprecht: I just wanted to put on the record that you made a pretty compelling case and that as far as I am concerned it is really objectionable to have animals suffer like this, especially within urban centres, and even beyond urban centres. We are confining ourselves to the city of Toronto in this specific case but I wish we could go beyond that. If you had not brought in some other alternatives showing us a more humane way of catching these animals and even the value of taking them away, then that might be a different story. I have no objection whatsoever; in fact, I have total support for this.

Mr Bonner raises some other questions I would like to get some answers for. Mr Bonner, in your presentation you indicated that in this act, if you can clear this up for me, you are saying the fines should be raised. This obviously gives you the authority to raise fines, or is this strictly confined to prohibiting the use of leghold traps, snares and conibears.

Mr Bonner: I would pass that on to Pat, Mr Ruprecht.

Ms Foran: We no longer put the amount of the fines or the ability to impose fines in this type of legislation because it is governed by the Provincial Offences Act. The maximum penalty would be $5,000 under that act. We would impose a penalty of up to $5,000, then we would apply for a set fine. Again, that is within the jurisdiction of the chief judge, so I cannot say what that set fine would be. We would be arguing for a very hefty set fine.

Mr Ruprecht: Is this under your authority now? The legislation is in place that provides for you to raise fines anyway without this piece in front of us, correct?

Ms Foran: We have the authority in a bylaw to impose any fine up to $5,000.

Mr Ruprecht: So you could do that now.

Ms Foran: Yes, that is why it is not set out in this section. It is taken out because it is no longer necessary to put it into the private bills. That is governed by the Provincial Offences Act.

Mr Ruprecht: Mr Bonner mentioned something about the right of entry, which of course raises a whole bunch of subquestions which perhaps would be irrelevant to this bill. In your presentation, Mr Bonner, were you thinking that the right of entry was included in this bill?

Mr Bonner: No, Mr Ruprecht. The unfortunate part is that I believe most of these traps are kept in basements of houses, etc. Usually, when we come across them somebody has called us and we have found them in the backyard or laneway adjacent to a house. Obviously, under the Criminal Code you must have extreme measures to obtain a warrant to search a residence. I am not suggesting that at all. What I am saying is that we would find a very small percentage of these traps since they are maintained within the residence. We would require the right to enter a property, although I think the percentage of the total number of traps available within the city would be minimal.

Ms Foran: We realize that to get legislation to enter private property—we are very careful when we make an application such as that and we are not asking for it. We would not enter a private building or residence. It is where these are set that could do damage to the public at this time: our public laneways, the outside areas and parks, wherever they are set. We would not enter private buildings to search for these or get a search warrant or anything like that. We have not gone that far in this legislation.

Mr Ruprecht: I realize you have been very cautious in the past as far as the city of Toronto is concerned, but this is not part of the legislation in front of us, right.

Ms Foran: That is right.

Mr Ruprecht: My final question is a procedural one really, that maybe concerns the committee as well. Are we going to proceed with sections 1, 2, 3 and 4, and then have people speak to it? How do you want to proceed with this?

The Chair: That is a very interesting question because obviously section 1 refers to the issue of the leghold traps. Sections 2, 3 and 4 and consequently sections 5, 6 and 7 are about totally different matters which I am sure the—

Ms Foran: Section 5 relates also to section 1.

The Chair: Regardless then, sections 2, 3, 4, 6 and 7 are totally different issues and my understanding is that they were added for the purposes of simplification and being able to make several presentations at one time, which I am sure Ms Foran will do after we have discussed the leghold trap issue. I suggest we finish with that issue, and the other issues brought up in the bill should be dealt with separately. Does that make sense, Mr Ruprecht?

Mr Ruprecht: Yes, that is fine.

The Chair: Do we have the concurrence of the committee members? Can Mr Wood now pose his questions? Mr Ruprecht, were you finished?

Mr Ruprecht: Yes.

Mr Wood: I am a little concerned about a couple of items mentioned in the bill, the maintaining or selling of traps. I represent a large constituency in northern Ontario where we have native and non-native trappers in the fur industry. There is a concern to have it built up because it is a way of life. It is an income for people at certain times of the year and there is a good dollar to be made, so I am a little concerned by one of the articles, which says maintaining possession of them or selling them would become illegal.

There is no doubt that we have to publicize humane ways of trapping, but trapping has been going on for quite a number of years and should continue with humane ways of trapping fur-bearing animals and as a way of making an income. There are a number of regulations for the control of traps within the city of Toronto right now. I am wondering if publicity is not the right way to go to deal with the concern about domestic animals being trapped. What reaction do I get on that?

Ms Foran: Maybe we could go back and I could tell you what is in existence in the city of Toronto right now. There is private legislation whereby the city can pass a bylaw, and the city has passed a bylaw, which prohibits the use, setting or maintaining of leghold traps. It is felt that does not go far enough in that they are still sold within the city of Toronto. The previous legislation did not cover conibears or snares, but the maintaining of a leghold trap at this time is prohibited in the city of Toronto by special legislation and bylaw 644-78 which has been in existence since 1978. I am not aware of anybody who has objected to that bill.

The maintaining of leghold traps in the city of Toronto is already prohibited by bylaw, but if you wish to get into the educational aspect, maybe Ms Hunter could give you some background on what they propose to do once this legislation comes into force. If we get it, there will immediately be a large educational program to make people aware of the legislation, aware of the alternatives, that it does not cost anything to use the alternatives, that the city of Toronto provides these alternatives and sets the humane traps and inspects them every day to see if there is an animal there, and that the animals caught in the humane traps are taken to the shelter and then either adopted or whatever happens to them. There is a program in place and that is what is going to be brought across by educational methods. They have geared up to an educational program if the legislation comes into being. It is not just going to be forced on the people right away. We realize that this type of legislation may not work in the riding you represent, because it is a somewhat different situation. We are dealing with an urban area. We feel there are some distinguishing factors.

Mr Wood: Just to go one step farther, there is a concern that once a regulation or a bylaw of this kind is put into one particular area, what is to prevent other municipalities or communities from saying they have to have it in their area. Then we have a whole industry that is their way of life. I could go just a little bit farther to say trapping goes on in 75% of the land mass of the province of Ontario, to some degree. There is a lot of unfair, bad publicity given to the trapping industry and prices were driven down. If the prices were to go back up, this would be a way of saving thousands of dollars.

It is very similar to a person running and maintaining a farm. It is one way of regulating the animals. Beaver can get to the point where they overpopulate and cause, I could say, millions of dollars in damage to existing roads and railway lines. That covers about 75% of the land mass in northern, northeastern and northwestern Ontario. So I am really concerned that it might cause a lot of fighting between different groups of people saying, "There's a bylaw being passed in the city of Toronto, and that should be extended to the other areas."

1040

Ms Foran: If I could answer that, I also come from a rural, northeastern area of Ontario, so I understand what you are speaking about. It is a very different situation in the city of Toronto, I know that. But I have to go back to the fact that since 1978 the city has had a bylaw which prohibits—and I will read it—"the use, the maintaining or the setting of leghold traps in the city of Toronto." I know of no other municipality that followed Toronto.

The precedent is there. We already have one bylaw and we are looking to expand it. No other municipality in Ontario has come forward since 1978 and it has been on the books a long time. I realize there is the argument that if you give it to the city of Toronto, other people will be looking for it, but nobody has come forward looking for legislation similar to our bylaw passed in 1978. That defeats that argument. I think it is unique to the city of Toronto.

Mr Sutherland: I am just a bit confused on this section in that you already have a bylaw in place prohibiting the use of traps. You said you have a bylaw in place to prohibit leghold traps.

Ms Foran: To prohibit use, setting or maintaining of leghold traps. We want to go beyond that.

Mr Sutherland: Okay, so what you want to add is the snare and conibear, correct?

Ms Foran: Right. We also want to add the—I just have to go back to the bill here—selling, leasing or distributing.

Mr Sutherland: I guess my real question is, though, if you are trying to stop the use, how is this piece of legislation going to make it any easier to enforce what you are doing? It seems to me, if you already have a bylaw but you are still seeing examples of it occurring, there is a question of enforcement. I am not getting the message as to how this piece of legislation is going to give you any better enforcement to prevent these animals from getting into the traps.

Ms Foran: It will prevent people from going to stores and buying them. It will prevent people from lending, leasing or distributing them within the city, and it will go beyond leghold traps. It will go into the other types of devices that are objectionable. We are basically expanding what we already have, but now we can prohibit the use, setting and maintaining.

Mr Hansen: The selling, the leasing and the distributing of leghold traps—I think here in Toronto are suppliers to other parts of the province. So if you are a distributor

here in Toronto or a wholesaler, then possibly you could not sell to Kapuskasing or Sault Ste Marie.

Ms Foran: That would be a question the seller would have to determine, but the legislation, if you look at subsection 1(2), does confine the legislation necessarily to within the city of Toronto, so you cannot distribute or lease or sell within the city of Toronto.

Mr Hansen: So no one would be able to sell within the city of Toronto a leghold trap to someone from Kapuskasing.

Ms Foran: That is right. I guess they would have to make other arrangements as to where the point of sale would take place, but I do not know if that is a fact that the distributors are in Toronto. I just do not know.

Mr Hansen: I do not know. These are questions we are asking. How many stores or distributors or whatever are selling them at present in Toronto? Have you got any idea?

Ms Hunter: Our staff did not have any difficulty finding leghold traps for sale. I cannot tell you how many stores, but—

Mr Hansen: Most sporting stores?

Ms Hunter: Bill, you shopped around, did you not?

Mr Bonner: I did find three stores out of the five or six I went into to see if they had traps. This was, I believe, in late spring or early summer. I went out again to purchase the padded trap we saw that was talked about. I managed to find that in North York with no problem. I went back to two of the other stores that I had visited that previously sold the traps. In one store there was a different man there at this time and he indicated he did not have any more traps. So I went directly to where the traps were kept when I went there a couple months prior to that. They were no longer there. The other stores still had them at that time. But when I wanted the padded trap, I had no problem going to North York and finding it. I did not do all the city of Toronto. Time is limited, but when I wanted to find the traps the first time, I was very successful.

Mr Drainville: Mr Wood, who was here, is the parliamentary assistant to the Minister of Natural Resources. He raised certain concerns and objections. In terms of our approach, we are objecting to it basically because of the Ministry of Natural Resources and concerns about how this is going to be effectively used in the city of Toronto and the fact that this sets precedents which we have real questions about.

I come from an area where these kinds of traps are used, and I have seen animals that have been in these traps, and I have my own concerns about them. But certainly in drafting laws and putting legislation into force we have to ensure that legislation, that law is going to do the job it is meant to do. Finding a padded trap in North York is totally out of the purview of this legislation anyway, and it will find its way into the city of Toronto. We know that there are between two and three million leghold and other kinds of traps lying in garages, in basements, in attics all over Ontario. The reality is that many times, those are ones that end up being used to begin with.

We have a bylaw proposed here which, it is the view of the ministry, is not going to be terribly effective. Therefore, we object to it and feel that it really needs to go back to be worked on to be a piece of legislation or a bylaw that would be more effective. Mr Wood is not here any more to raise any further objections. I think he has another committee as well. So at this point, in terms of this particular section, there is an objection on the part of the government of Ontario.

1050

Mr Ruprecht: If I understand this correctly, and I know you may not be totally briefed on this, Mr Drainville, but for the committee's enlightenment, could you run by those two essential objections you had? One was effective use, and the other one was something like the thin edge of the wedge if Toronto uses it and others might use it as well.

Mr Drainville: Okay, let me take the second first. What this legislation is asking is that we prohibit the selling of something. If we prohibit the selling of something in the city of Toronto, surely that opens up the possibility of prohibiting the selling of that same thing in other parts of the province. The government has some real objections to moving into the area of making those kinds of dispositions because, as we know, there are parts of Ontario in which these things are being sold and used by people who are licensed to do so and have the training to do so. It raises all sorts of issues, and this bylaw being suggested is not complete or comprehensive enough, nor does it approach the issue in a way that allows for it to be such an exclusionary bylaw that it would make sense to allow it to happen in Toronto only. It is a wide-open kind of bylaw.

As to the first point, I can even admit the problem we are facing. In fact, in Ontario the provincial government quite a number of years ago tried to have serial numbers on leg traps and tried to take care of how they were being used in the province. The ministry failed in that process, mainly because of how people use traps and how they are traded and how they go from generation to generation in families and end up in various places. It is very hard to control these things. Many of the traps being used have been in existence for a very long time, they are not new traps being sold. Our ability to police such a thing and to ensure this whole area is on very shaky ground.

Mr Ruprecht: It would seem obvious that Mr Drainville is giving out some vibes to the committee members on the other side, and consequently there is a chance this may be defeated. Let me just say a few words to make sure we understand the positions here.

First, in terms of your effective use of these leghold traps, just because there are some members of Parliament who in the past had some affection for the historical traps or because they wanted to have them on the walls or because there may be some other related problems with them does not make it actually right. The animals still have to suffer, and we have come through a period of what some of us might term enlightenment: that just because the traps have been used for 1,000 years or 200 years or 100 years or even five years does not make it right, does not make it the best kind of a trap.

Second, we are talking about a certain jurisdiction. We are not talking about this legislation being province-wide. We are not saying that. We are simply saying that the city of Toronto, in terms of its own area, is very small compared to the rest of the province. If other jurisdictions wish to come to the city because of its care not to make animals suffer, well, let them come. We are prepared as a regulations committee to hear them all. That is what our job is. If other jurisdictions are coming with specific bills, fine, then let's look at them.

We have heard that part of this bill has been in existence since 1978 and no other jurisdictions have come before this committee. It is very clear that while this may be trailblazing there is no necessary push from other jurisdictions to come to the city and say, "This is what we want as well." It is totally unrelated.

From our perspective I would say we would not be in favour of your objection, and I would like to tell the other members of the committee that the city is here, the Toronto Humane Society is here, I think they have made a compelling case, and I would urge you to vote in favour of this legislation.

Mr Drainville: Just a very quick response, Mr Chair, and that is to say I have no affection for the leghold trap. I do have affection for well-drafted bylaws and legislation; this just does not happen to be one. That is why we are objecting to its presentation at this point in time.

Ms Foran: Ms Hunter was wondering if she could respond to the ministry's position. We are somewhat surprised because we have dealt with the ministry. We understood that if we brought in an amendment saying, "Despite clause 2(1)(b) of the Game and Fish Act and the regulations," the ministry did not have an objection. It is very difficult to sit here this morning and hear that there is a problem with effective use and the thin edge of the wedge. The fact that we have had similar legislation since 1978 and no other municipality has come forward sort of defeats that argument. At least give us a chance to show how we can effectively use it. It is all right for ministry officials to say, "Well, it won't be used effectively." Give us a chance. But Ms Hunter from the Toronto Humane Society would like to speak.

The Chair: You are suggesting an amendment to the act—

Ms Foran: There was an amendment coming forward—

The Chair: Yes, and the clerk is circulating that. Are you suggesting or are you requesting that someone move that amendment?

Ms Foran: We had agreed with the ministry—

The Chair: Your suggestion is that this amendment would deal with one of the issues the parliamentary assistant brought up.

Ms Foran: We had thought so.

The Chair: The amendment is not yet on the floor and has not yet been moved. Is there someone who is willing to do so?

Mr Ruprecht: I would like to read it first, Mr Chairman. If you would just give me one minute.

Ms Foran: Ms Hunter also wanted to speak to the ministry's position, if that is possible.

The Chair: My concern, Ms Hunter, is a couple of things. We have an amendment which has not been put forth, and we have your response to the parliamentary assistant, and I am not quite sure which should be going first.

Mr Ruprecht: Mr Chairman, if it would help you out, then I will move this motion.

The Chair: Mr Ruprecht moves that subsection 1(2) of the bill be amended by adding at the beginning, "Despite clause 2(1)(b) of the Game and Fish Act and any regulation made under the act."

Mr Ruprecht: That is Bill Pr25, An Act respecting the City of Toronto.

The Chair: Ms Foran, could you or Ms Hunter expand upon the amendment and how that would meet the parliamentary assistant's concerns?

Ms Foran: I had understood that the amendment came about because the ministry felt the legislation was contrary to clause 2(1)(b) of the Game and Fish Act, and we wanted to say "despite that." We had understood from somebody at the ministry—this legislation has been around for about two years—that this was what the concern was, and I hear different concerns this morning. But Ms Hunter wanted to speak to the concern.

Ms Hunter: I simply wanted to go back to the points that Mr Drainville was making. First of all, I do not think other localities are necessarily going to follow us. We have already had the example of 1978 when something was passed and no one picked it up. But further, if they do, surely that is because the locality wants to do so, and it should be free to do so. It would be a decision made locally, so I do not think that is anything to fear.

Second, as far as the monitoring of traps is concerned, it does not take place now because there is evidently no group or body prepared to do that. If we get this new legislation, the Toronto Humane Society, with the help of animal control, would undertake to educate the public about the new bylaw. We would certainly undertake some kind of monitoring to make sure things were running well.

1100

The Chair: Is there any further discussion of the amendment? We will have to leave the amendment on the table to deal with the other sections of the act.

Mr Drainville: I want to respond to the solicitor from the city of Toronto and make it abundantly clear that in all my discussions with the Ministry of Natural Resources and our—

The Chair: Are you speaking on the amendment, Mr Drainville?

Mr Drainville: Yes. The amendment that is being put forward does not significantly alter the stand of the ministry. I would like to know to whom you were talking, because that would be very helpful to my going back and trying to ascertain exactly how you came to that particular perspective.

Ms Foran: Perhaps I can send you a letter on that. I just do not have the name here.

Mr Drainville: Okay, because I have volumes of correspondence with the solicitor and the clerk's office and everything else about the position of Natural Resources and it does not indicate that this would be an acceptable answer to the ministry.

The Chair: That clarification would probably be very helpful, but my concern is that it would not be arrived at until after we had either deferred or passed the bill. Is there any further discussion on the amendment? Hearing none, could we move on to the other sections of Bill Pr25? Ms Foran.

Ms Foran: Yes, we will now deal with section 2 of Bill Pr25. Section 2 deals with committees of management set up under the Community Recreation Centres Act. At the present time, the act requires that where a committee of management is composed of five or more persons, at least two members of the committee shall also be members of council. The act also requires that members of the committee be appointed annually. All section 2 of the bill does is reduce from two to one the number of members of council who sit on a committee of management and it provides that members of the committee holding office on the day of a regular election continue in office until their successors are appointed by the new council.

The reduction of the number of members of council sitting on a committee from two to one arises out of the new electoral system in the city. Where formerly each ward had two members of council, for the past three years each ward in the city has been represented by just one elected member of council. Council now wishes that the member of council representing the ward where the community facility is located should sit on the committee of management. Because of the increasing pressures being placed on members of council from the perspective of time and workload, it is impossible to get a member from a different ward to sit as the second member of a committee for a facility not in that member's ward.

For the past three years we have tried to comply with the Community Recreation Centres Act by having the mayor appointed as the second member. This placed an incredible amount of pressure on the mayor to attend every meeting, and if he did not attend every meeting, there was a quorum problem. It is felt by city council that the community recreation centre would be better served if only the local member of council were required to sit on the committee.

There are two amendments which I understand will be coming forward. These are the result of objections raised by the Ministry of Municipal Affairs. I understand that the ministry is now satisfied. The amendment found in subsection 2(2) provides that a member of the committee shall not hold office beyond the term of the council appointing the members. This is the amendment of the Ministry of Municipal Affairs but one which the city accepts and is willing to incorporate into the bill.

Subsection 2(3) would provide for a smooth transition of power in an election year, because subsection 2(2) provides that where a council goes out of office on November 30, in theory there is no committee of management until the new council is appointed, which can be a matter of days or weeks. Subsection 2(3) plugs that gap by providing that a person who was a member of the committee on November 30 in an election year continues in office until a successor is appointed.

I have with me Mr Mario Zanetti, director of recreation for the city of Toronto, who can answer any other questions you may have.

The Chair: Mr Ruprecht moves that subsection 2(2) of the bill be struck out and the following substituted:

"(2) Despite subsection 5(3) of the Community Recreation Centres Act, members of a committee of management appointed under subsection 5(1) of that act shall not hold office beyond the term of the council that appointed them and are eligible for reappointment.

"(3) Despite subsection (2), members of a committee of management in office on the day of a regular election shall continue in office until their successors are appointed by the newly elected council."

Any discussion in terms of the amendment? No? Section 3.

Ms Foran: Section 3 of the bill deals with demolition permits issued by council under section 33 of the Planning Act or section 1 of the City of Toronto Act, 1984. When council is dealing with an application to demolish a residential property under those acts, council often wishes to impose conditions upon the granting of such a permit. There are various types of conditions which council might consider, such as requiring the applicant to substantially complete a new building on the site by a certain date, requiring the site to be cleared and left in a graded and levelled condition to ensure the ground water will not adversely affect adjacent properties, requiring that suitable ground cover be provided or requiring that the site or a portion thereof be used as a parkette.

There are other conditions council has considered; for example, the protection and preservation of significant natural elements and features, such as private trees. Council has also considered imposing such conditions as the removal of existing encroachments and services and requiring adequate provision for protection for the public. There are other environmental concerns which council is looking at, such as the requiring of submission of satisfactory hazardous waste or PCB audit or disposal plans or dust management plans, material recovery and waste reduction plans or submission of comprehensive soil testing plans and site remediation plans. These are the kinds of conditions council wishes to consider.

The way section 3 was framed on first reading of the bill, council could impose such conditions as are, in its opinion, in the interest of the municipality. The Ministry of Municipal Affairs came forward last week with a proposed amendment, which I believe it is distributing. This amendment essentially would say that council could impose any condition which, in the opinion of council, is reasonable, having regard to the nature of the residential property to be demolished. The city council has agreed to this amendment.

The proposed legislation will also deal with a right of appeal to the Ontario Municipal Board for a variation of any condition. Also, where there is a demolition permit

issued subject to a condition, the person may apply for relief from that condition in that a decision of council in respect of the relieving of a condition is appealable to the Ontario Municipal Board. The legislation also provides that where a condition is not complied with, the city may do the work and may have a lien for the amount expended. The legislation also provides for a penalty and for service of notices.

In summary, city council wishes permission to impose certain conditions when a demolition permit for residential property is issued. The legislation has been drafted to safeguard the interests of the applicant and to satisfy the concerns of the inhabitants in the neighbourhood of the property to be demolished. I understand that the amendment which came forward last week and which we are prepared to support, satisfies the concerns of the ministries, at least the concerns of the ministries as they were made known to me last week. That is the position of the city.

1110

The Chair: I am sorry. The amendment is—

Ms Foran: It is a ministry amendment coming forward.

The Chair: That is under dispute for a moment. Excuse me. The parliamentary assistant is requesting a brief recess of five minutes, please.

Ms Foran: We can go without the amendment. We are agreeable to go without the amendment. We are just trying to be co-operative and support the amendment. If there is some question about the amendment—

The Chair: Ms Foran, I certainly appreciate that, but the parliamentary assistant still requests a five-minute recess.

Ms Foran: I am easy to get along with.

Mr Ruprecht: Could I make the suggestion that we move on to section 4?

The Chair: One moment, I will check with the parliamentary assistant.

Mr Ruprecht: You are the Chair.

The Chair: We will return to consideration of section 3. Section 4.

Ms Foran: Section 4 of Bill Pr25 would enable city council to pass bylaws for numbering buildings and lots or units on private roadways, for affixing numbers to such buildings and for charging the owner or occupant of such building, lot or unit with the expense incident thereto. The legislation would also provide for the naming and renaming of private roadways and for charging the owner or the condominium corporation with the expense incident thereto. The legislation also provides for the keeping of records and the making available of such records for public inspection and for making available for public inspection the names and locations of private roadways. The legislation also provides for the requiring of the owner of a private roadway or condominium corporation to enter into agreement with the city in respect of such private roadway and for terminating such agreement.

I understand there is another amendment before your committee today. This arises out of a concern raised by the Ministry of Consumer and Commercial Relations. I have a letter here that says the ministry is satisfied with that amendment and city council has agreed to that amendment.

There are three reasons why the city is requesting this legislation. First, it would eliminate potential ambiguities in interpreting bylaws which define properties by reference to municipal addresses. Second, it would ensure that municipal addresses used by the public are consistent with the computerized addresses based on property records in the city and Metropolitan Toronto and the assessment offices. Third, it would facilitate the dispatch of emergency vehicles.

I have with me Mr Wally Kowalenko, who will deal with any questions the members of the committee may have.

There is precedent for this type of legislation; Sault Ste Marie obtained it I believe 10 years ago.

To summarize, the city needs this kind of legislation. Its primary concern is to eliminate ambiguities in bylaws and to facilitate dispatch of emergency services when you have private roadways which are not officially recorded in the city's books. Therefore, we ask that your committee approve this section and report it to the House.

Mr Ruprecht: Mr Chairman, in terms of process, do you want to read the motion first? I have a question for Ms Foran or for the person in charge. What do you want to do first?

The Chair: Why do you not ask your question first and then we can have the motion. Perhaps we could have the amendment you are talking about at the end of our discussion of section 4, seeing that the amendment is fairly substantially agreed upon already.

Mr Ruprecht: Was there a change? I have a question, but did you say now to read the motion first?

The Chair: I was suggesting we could either do it right at the beginning or at the end of our discussion.

Mr Ruprecht: What do you suggest? I will do whatever you want me to do. I am totally at your mercy.

The Chair: Let us go at the beginning, sir.

Mr Ruprecht: Meaning the motion.

The Chair: Mr Ruprecht moves that section 4 of the bill be amended by striking out subsections (8) and (9).

Mr Ruprecht: While we are waiting for item 3, I was wondering, Ms Foran, if section 4 of this bill deals specifically and solely with private roadways, not public roadways, and private lots. I suppose the city of Toronto would pay for the public roadways, but the private roadways' numbering systems is paid for by individuals. Is that how it is going to work?

Ms Foran: Yes. That is one area I forgot to mention, I am sorry. The legislation does provide that if the city numbers these buildings, puts up street signs or names the roads, it would charge the owner or the occupant or the condominium corporation for so doing and the city would have a lien which would be collectable like taxes for that purpose. The reason we are agreeing to delete subsections 4(8) and 4(9) is that the ministry objected to having these agreements registered on title and trying to collect it as a charge against the land by notice on title, because the ministry's position was the city could be protected by its lien being collected in the same manner as taxes. The city

has agreed to that position. We would be looking at the owner or the occupant or the condominium corporation, and that is exactly the same as was done in Sault Ste Marie in 1981.

Mr Hansen: These numbers and addresses, is there anything in the regulations—maybe it is your other one on the public areas—on the size of the sign, location of the sign or the laneway on private lands, or that the number has to be within a certain size so it is readable from the street, so that if the police department or the fire department is going to an apartment number, or whatever the case may be, it would be readable, and where the number is affixed so that there is something that is a little bit more standard?

Travelling in Europe, I noticed some of the city-owned, what they call, city homes, which were apartments, had large numbers affixed in a certain area and everything was named on the laneways there. It was on the corner of the building so a police officer coming would know exactly where to look. I do not know what you have in your regulations here in Toronto.

Ms Foran: They would be handled in the same way as public streets. You have hit on what the problem is. If in the city's books something is shown as 10 such-and-such a street but it is a private property, they number it as a square or something like that because their property sells better known that way. Then with an emergency vehicle such as a firetruck, which address is used? We want to be able to change our books so that we would refer to the private roadway. That would be the official street number and name. Then they would be handled the same as any other public highway: The official names would be put on and street names would be uniform with other streets in the city.

Mr Hansen: That was part of the question I asked you about the size of the letters and the location of the signs. There is a bylaw now?

Ms Foran: In relation to the public streets and public lanes, yes, we have a bylaw and certain requirements of the Highway Traffic Act also in relation to public streets.

Mr Hansen: I was looking through here. I did not actually see where that would apply to this.

Ms Foran: We would handle it just the same as any other—

Mr Hansen: What subsection or section would that be in?

Ms Foran: We would number the buildings, lots or units along private roadways. That would give us the right to do it.

Mr Hansen: I am just saying there is not a reference to your other bylaw.

Ms Foran: As to size, no. But, naturally, if the whole purpose in getting the legislation is to clear up the ambiguities and to make emergency vehicles aware of what the proper name of the street is, we are going to number it and name it and require them to do it so that the public knows what it is. I think that is the whole purpose.

Mr Hansen: This is just a friendly suggestion so that you do not have to come back next year and add an amendment.

Ms Foran: No, we will not. That is right.

1120

The Chair: Further discussion? Hearing no further discussion on section 4, shall we return to section 3?

Mr Drainville: If I could just for a moment mention that we have no objections to section 2. We just want to make that very clear. In terms of section 4, with the amendments that have been put forward we have no objections to it either.

In terms of section 3, we end up in a slightly different situation. First, I want to indicate that there was a sense of surprise on our part that in terms of the amendment we had suggested to the city of Toronto we received a letter dated October 22 from Ms Foran indicating they cannot agree to that particular thing. We were a little surprised, to say the least, when we saw there had been a change in policy; not that that is a bad thing, but we were a little bit taken aback. We were not quite prepared for that response from the city of Toronto.

What I would like to say is that at this time the Ministry of Municipal Affairs has no objection to the amendment that has been proposed, but there is some concern on the part of the Ministry of Housing. The Ministry of Housing has a suggestion to make, if that is acceptable to the solicitor of the city of Toronto, that we might be able to accept section 3 as presented, with these amendments. I would now turn it over to Mr Chris Thompson from the Ministry of Housing.

Mr Thompson: My name is Chris Thompson. I am a planner with the rental housing protection program at the Ministry of Housing. We have some objection to the wording of subsection 3(1). The particular concern we have relates to the lack of precision about the imposition of conditions. The ministry is concerned there is nothing at the present time in the motion as it stands to indicate that buildings exempt from the Rental Housing Protection Act are not to be addressed by certain types of conditions.

The proposal we have come up with is, I gather, to insert a second subsection, 3(1)(1), stating that if there is a conflict between a condition imposed under this section and the Rental Housing Protection Act, 1989, the Rental Housing Protection Act prevails.

Ms Foran: I do not have any instructions on that, but I can assure you the city council has always supported the Rental Housing Protection Act, and in fact was the leading body, because I was involved, in getting that act passed. If there was a condition that city council wished to impose that was contrary to that act—I am not sure if the wording says "contrary to that act"—there is no way city council would be imposing that condition. I have not seen the amendment. Could somebody distribute it to me so I can understand it?

The Chair: We seem to be dealing with a number of amendments to different sections of this act, and these different sections of the act seem to deal with somewhat different issues. Is that amendment forthcoming?

Mr Drainville: Legislative counsel has just been writing it out, actually.

The Chair: I am wondering if it is possible for us, while this is being circulated, to return to sections 2 or 4. It seems we are slowly going back and forth and getting closer and closer to resolution on this bill.

Mr Ruprecht: It is getting closer to Christmas every day.

The Chair: Indeed, that too.

First, this amendment on section 2: Any further discussion on the amendment?

Mr Ruprecht: Is this the amendment I read previously, or is this a new amendment?

The Chair: Subsection 2(2). Yes, this is one of the amendments you put forth. All in favour of the amendment as presented please indicate. Opposed?

Motion agreed to.

Section 2, as amended, agreed to.

The Chair: Section 4: All in favour of Mr Ruprecht's amendment? Opposed, if any?

Motion agreed to.

Section 4, as amended, agreed to.

Ms Foran: If you wish to go back to section 3, while I have no instructions as to the proposed amendment and I cannot get back to the city council to get them, I am not going to object to it. Clearly there will never be a situation where there is a conflict because the act just would not apply, so I am not objecting to that.

The Chair: Thank you, Ms Foran. It seems we have two amendments which have not been produced and about which we have some degree of agreement. It would be nice to read them.

Mr Sutherland: I will move the amendment if someone can read it into the record.

The Chair: We have to have that first. Do we have the first amendment?

Interjections.

Mr Ruprecht: It is the first time this has happened in the history of this committee that we all agree before we even start.

The Chair: Indeed, yes. The provincial government and the city of Toronto seem to be in agreement, in any case.

Mr Sutherland moves that subsection 3(1) of the bill be struck out, and the following substituted:

"(1) If a demolition permit is issued under section 33 of the Planning Act, 1983, or section 1 of the City of Toronto Act, 1984, the council or the corporation may, in addition to any other conditions it may impose under those sections, impose as a condition of the demolition permit any condition that, in the opinion of council, is reasonable, having regard to the nature of the residential property to be demolished, including conditions,

"(a) requiring the preservation of significant natural features; and

"(b) requiring the erection and maintenance of structures and enclosures around the residential property proposed to be demolished and for requiring the submission and approval of plans of the structures and enclosures.

"(1.1) If there is a conflict between a condition imposed under this section and the Rental Housing Protection Act, 1989, the Rental Housing Protection Act, 1989, prevails."

Motion agreed to.

Section 3, as amended, agreed to.

The Chair: We now have Mr Ruprecht's amendment to subsection 1(2), which refers to the Game and Fish Act. Any discussion of the amendment?

Motion negatived.

The Chair: Is there any further discussion on section 1?

1130

Mr Ruprecht: Would it help if I chained myself to a trap as Mr Drainville chained himself to some trees?

The Chair: Any further discussion on section 1? All in favour of section 1? Opposed?

Section 1 negatived.

The Chair: Section 5 is consequential to section 1.

Ms Foran: I would then ask that section 5 be struck out.

The Chair: So section 5 is withdrawn?

Ms Foran: I do not know if you wish a motion or if you just wish me to withdraw section 5.

The Chair: The clerk suggests that the section would have to be defeated.

All in favour of section 5? All opposed?

Section 5 negatived.

Sections 6 and 7 agreed to.

Bill ordered to be reported.

CITY OF NEPEAN ACT, 1991

Consideration of Bill Pr110, An Act respecting the City of Nepean.

The Chair: Mrs O'Neill is sponsoring Bill Pr110.

Mrs Y. O'Neill: That is correct. This bill "would authorize the corporation of the city of Nepean to establish the amount to be charged for its licensing fees." Ms Nancy L. Miles, the city solicitor, is here to present the reasons for the bill.

Mr Sutherland: This looks like a pretty routine bill. I move that we go to an immediate vote.

The Chair: I suggest that for the record, the city solicitor be allowed the opportunity to at least introduce the legislation. She has waited a fair bit of time and come a fair distance.

Ms Miles: Good morning. At the end of last year the solicitors for the corporation of the city of Nepean undertook a comprehensive review of Nepean's licensing bylaw and they found that, with respect to the administration and enforcement cost of certain licences, there was quite a disparity. The reason was that certain licensing fees are subject to statutory maximums of $10, $25 or $50. The cost of enforcement and administration was much greater than that.

In February 1991, the council of the corporation of the city of Nepean resolved to apply for this special legislation. It was to be in a more comprehensive form, and we had had a letter from the honourable David Cooke, the Minister of

Municipal Affairs, talking about his problems with the bill as drafted. Essentially the concern was that if we were going to take away the statutory maximum for these certain licensing fees, the cost of the licence the city could impose should be linked directly to the administration and enforcement costs.

You will see that the act has now been amended to provide for those certain sections of the Municipal Act and the Bread Sales Act which impose statutory maximums. Paragraph 1(1)1 goes on to link the maximum fee to be charged to the administrative and enforcement costs, so in our opinion it is no more than a cost recovery bill.

Mr Ruprecht: I think Mr Kimble had a great point. I appreciate Nancy coming all this way, but certainly what I really see is Yvonne O'Neill's signature as the sponsor here. That is good enough for me. I would consequently—

Mr Abel: Talk about power.

The Chair: Is it the opinion of the committee that we should be ready to vote?

Mr Sutherland: Yes.

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

The Chair: Thank you, Mrs O'Neill and Ms Miles.

We have no business next week. As well, it is the swearing-in ceremony for the new Lieutenant Governor. Our next meeting will be in two weeks.

The committee adjourned at 1136.

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Official Report of Debates (Hansard)

Wednesday 18 December 1991

Standing committee on regulations and private bills

Chair: Drummond White
Clerk: Todd Decker

Assemblée législative de l'Ontario

Première session, 35e législature

Journal des débats (Hansard)

Le mercredi 18 décembre 1991

Comité permanent des règlements et des projets de loi d'intérêt privé

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 18 December 1991

The committee met at 1002 in committee room 1.

WEST NIPISSING ECONOMIC DEVELOPMENT CORPORATION ACT, 1991

Consideration of Bill Pr119, An Act to establish the West Nipissing Economic Development Corporation.

The Chair: I would like to call this meeting to order. The first item on our agenda is a revision. Mr Harris, who is sponsoring Bill Pr119.

Mr Harris: The mayor of Sturgeon Falls, Mr Michel DeCaen, is here and I wonder is he could come up. Mr Chairman and members of the committee, this bill is An Act to establish the West Nipissing Economic Development Corporation. The mayor will have a few comments to make. It is a bill that has the support of the Ministry of Municipal Affairs. It enables West Nipissing, in co-operation with the Ministry of Northern Development, which has provided assistance to the West Nipissing Economic Development Corp, to assist the town in helping itself.

This is a community of about 6,000 people. West Nipissing is an area of considerable size, about 9,000 people. The main industry is forestry. The main employer is MacMillan Bloedel Ltd. MacMillan Bloedel has closed permanently a significant portion of its operation in the town of Sturgeon Falls, putting about 160 employees out of work. The existing mill is a small craft mill that is threatened.

The urgency of forming the development corporation is the proposal that the corporation, in conjunction with MacMillan Bloedel, wishes to go forward with for a project to recycle a significant portion of cardboard, I think is the best way to describe the material. It offers an opportunity for West Nipissing to salvage the existing operation, which is not a profitable operation at the present time. There is, as many of you are aware, a current substantial oversupply in the forest products industry.

The joint venture will have no money from the municipality other than whatever the costs are of setting up this West Nipissing Economic Development Corp, which will be sponsored by the municipality. There will be grants available through the Ministry of the Environment and the normal grants that are available through government northern development from the Ministry of Industry, Trade and Technology. However, MacMillan Bloedel will be assuming 100% of the liability, as I understand it, of the operation of the facility.

In addition, the bill for this project provides an opportunity for the municipalities in West Nipissing to help themselves in a very difficult time, not a time that is unknown to many of you in your ridings, but which is hitting small communities in northern Ontario very hard, particularly those dependent on one industry primarily. In Sturgeon Falls and West Nipissing, it is the forest industry.

I believe the mayor has brief comments that he would like to make, and I believe there is somebody here from the Ministry of Municipal Affairs to answer any questions on technicalities of the bill. I appreciate very much the committee's consideration. Let me also thank you very much for accommodating my schedule and letting the mayor and I proceed right at 10 o'clock.

Mr DeCaen: Mr Chairman, honourable members, on behalf of the five municipalities of West Nipissing I would like to thank all the members of the Legislative Assembly and the members of this committee for supporting the introduction of this private bill. We know you are very busy, and therefore our comments will be brief. This private bill we are asking you to consider will serve as a vehicle to save jobs in our area. It will help us protect the few employment opportunities we have left while assisting us in our efforts to secure the economic viability of our communities.

It is not the intent to permit the use of municipal tax dollars to assist private enterprise. The only tax dollars proposed by this bill are for startup. It is not our intention to bypass the Ontario Municipal Board approval procedure. The present economic conditions impose a great strain on all levels of governments, and we believe in participating in our future. We need your support through this bill to permit us to participate with private enterprise in a joint venture that will be beneficial to all people of West Nipissing. We thank you for your consideration.

The Chair: Are there any questions for the sponsor or for the mayor? The parliamentary assistant.

Mr Drainville: Let me just say that the Ministry of Municipal Affairs has no objections to this going through. We would see this as helpful to the community if it was helped through with dispatch. Thank you.

The Chair: Any further discussion? Mr Sutherland.

Mr Sutherland: I was just asking you to call the question.

The Chair: Thank you for your assistance, Mr Sutherland. Are there any further questions?

Sections 1 to 9, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

Mr Harris: Thank you very much, Mr Chair. I realize from here forward it is beyond your control and apparently beyond mine as well, but I appreciate the committee's consideration.

1010

FEDERATED WOMEN'S INSTITUTES OF ONTARIO, BAY OF QUINTE BRANCH ACT, 1991

Consideration of Bill Pr109, An Act to revive Federated Women's Institutes of Ontario, Bay of Quinte Branch.

Mr H. O'Neil: I have been asked to represent the Federated Women's Institutes and their solicitors in the presentation this morning relating to Bill Pr109, An Act to

revive the Federated Women's Institutes of Ontario, Bay of Quinte Branch. I will give you a little bit of background on this and I will be very brief.

The Federated Women's Institutes of Ontario, Bay of Quinte Branch, was incorporated by letters patent on August 2, 1972. The letters patent of the corporation were cancelled under section 347(9) of the Corporations Act by an order dated July 17, 1979, and the corporation was dissolved as of that date for default in complying with section 5 of the Corporations Information Act, 1976. Through inadvertence, an application for revival of the corporation under section 347(10) of the Corporations Act was not made within two years of the date of dissolution. Accordingly, an application to the Legislature for an act to revive the corporation is now necessary.

It is my understanding that no existing legislation is amended by this bill. The applicant is not a municipality and the bill does not affect the interests or property of any municipality or local board or the tax base of any municipality. Also, it is my understanding that the companies branch of the Ministry of Consumer and Commercial Relations, the corporations tax branch of the Ministry of Revenue and the office of the public trustee have been consulted and they have been advised by the office of the legislative counsel that there is no objection to the bill.

No responses have been received from any persons or groups to the notice of the bill published in the Belleville Intelligencer and the Ontario Gazette, and to the best of our knowledge and belief, there are no persons or groups who are opposed to the bill. I might also mention that the bill has no effect on public legislation.

I would ask for the members' consideration of this application.

Mr Ruprecht: Seeing that Mr O'Neil is the sponsor of this bill, I want the record to show that, because of the inadvertent nature of the situation, we have no objection to reviving this legislation. Since there is no objection, consequently I would move to pass it as quickly as possible.

The Chair: Are you putting the question, Mr Ruprecht?

Mr Ruprecht: Yes.

The Chair: I do not believe others have had an opportunity to pose questions.

Mr Ruprecht: They will be convinced.

Mr H. O'Neil: I wonder if I might also ask for consideration of the remission of fees and waiving all or part of the printing costs in this particular matter.

The Chair: There are a couple of things we really should deal with before we get on to passing the bill. First, are there any objectors? Does the parliamentary assistant have any comments?

Mr Drainville: The government has no objection to this bill.

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Bill ordered to be reported.

Fee-waiving motion agreed to.

HOTSTONE MINERALS LIMITED ACT, 1991
TASMAQUE GOLD MINES LIMITED ACT, 1991
PITTSONTO MINING COMPANY LIMITED ACT, 1991
SUNBEAM EXPLORATION COMPANY LIMITED ACT, 1991
PETITCLERC MINES LIMITED ACT, 1991

Consideration of Bill Pr113, An Act to revive Hotstone Minerals Limited; Bill Pr114, An Act to revive Tasmaque Gold Mines Limited; Bill Pr115, An Act to revive Pittsonto Mining Company Limited; Bill Pr116, An Act to revive Sunbeam Exploration Company Limited, and Bill Pr117, An Act to revive Petitclerc Mines Limited.

Mr Miclash: My guest is Glen Erikson, who is the solicitor representing Mr Arthur White. This is to revive five mining companies. You have the information before you. I will let Mr Erikson explain the reason for this.

Mr Erikson: Mr Arthur White was a very active mine financier and developer in the 1940s and 1950s. He is a gentleman who is now in his 80s. He was very successful in raising funds for the development of mining properties in various places in Ontario. It is estimated that he financed approximately 50 projects in his time, raising approximately $60 million in exploration funds. He discovered eight mines—quite an accomplishment in his industry—which include the Campbell Red Lake mine at Red Lake and also the Dickenson mine at Red Lake. These two mines are still in production 40 years later. They employ approximately 600 people. They have produced in excess of three million ounces of gold to date. The companies he was responsible for forming and moving forward have paid hundreds of millions of dollars in taxes.

In the last few years, there have been a number of business reversals in his own situation and that of his family. He finds himself in much reduced circumstances, living outside the Toronto area, unable to cope with costs in Toronto. As a shareholder of these defunct companies, he wishes to reactivate them in an attempt to find value or make value for himself and the other shareholders.

If anyone living can be considered a pioneer in the true sense of the word, this gentleman is a pioneer. He is also going to be inducted into the Canadian Mining Hall of Fame on January 6, 1992. If anyone would be interested in a résumé of his life and accomplishments, I have 10 copies here.

These bills come forward together because of a belief on my part that there is a certain efficiency in dealing with these companies at once rather than separately. The mailings were made, all filings were made, back taxes have been paid and notice has been published in the Ontario Gazette and the Toronto Star in the usual way. No notice of objection has been received from any party, to my knowledge. I submit that the revival of these companies is something that could be done in good conscience to recognize the achievements of Mr White.

The Chair: Any comments or questions from the committee for Mr Erikson or Mr Miclash? Hearing none, does the parliamentary assistant have any commentary?

Mr Drainville: The government has no objection to these bills.

The Chair: Are we ready to vote on these bills?

Bills 113 to 117, inclusive, ordered to be reported.

The Chair: I am sure we would all be interested in looking at the biography, especially having had some involvement, if only minor, in Mr White's legacy.

1020

RIDEAU TRAIL ASSOCIATION ACT, 1991

Consideration of Bill Pr94, An Act to revive Rideau Trail Association.

The Chair: Mr Wilson is before us to present and sponsor Bill Pr94. Mr Wilson, do you have initial comments? Could you introduce your colleague.

Mr G. Wilson: I would like to introduce Elizabeth McIver, the vice-president of the Rideau Trail Association, the group I am sponsoring this bill for. It lost its incorporation status in 1979 because of a failure to provide annual returns. Recently, the association became aware of this loss of status and activated the process to achieve reincorporation.

The association has submitted documents: the bill requesting reincorporation, a compendium of background information, a cheque for $150 and documents indicating publication of an intent to reincorporate.

Ms McIver: Thank you for an opportunity to speak. The Rideau Trail Association is a hiking club between Kingston and Ottawa. It is a non-profit charitable organization and has established and maintained a hiking trail of 320 kilometres that is utilized a great deal by people in eastern Ontario. Last year we had over 1,000 members; 860 of them were individual paying people or families, 100 were life members, and there were 90 complimentary memberships.

The Chair: Thank you very much. Are there questions for the sponsor or the applicant? Hearing none, are there objectors?

Mr Drainville: Before I begin, Mr Chair, is the representative of the public trustee here at the meeting? Then I think I should, on behalf of the public trustee and the Ministry of the Attorney General, read into the record this concern they have. This is to the attention of Susan Klein, legislative counsel.

"Dear Sirs and Mesdames:

"Re: Rideau Trail Association Act, 1991

"Rideau Trail Association Incorporated

"I am writing with respect to the above-referenced bill to revive the corporate status of Rideau Trail Association Incorporated, a charity.

"By way of background, the public trustee is responsible for enforcing charities law (a provincial responsibility under the Constitution Act, 1867) in particular monitoring the proper applications of charitable assets to charitable purposes and acting to remedy improper or inappropriate use of such assets. The public trustee's jurisdiction in charitable matters is found in the Charitable Gifts Act, the Charities Accounting Act, as amended and the public trustee's standing to invoke the court's inherent jurisdiction in matters charitable.

"Upon receipt of legislative counsel's advice that this charity had applied for legislation to review its corporation status, we reviewed our files and found that it had never complied with section 1 of the CAA. Review of the public records further disclosed that the charity had been in existence since 1964 without complying.

"Section 1 of the CAA requires a charity to provide to the public trustee, without request and within one month of the charity's establishment, a description of the assets held for charitable purposes and an authenticated copy of the instrument governing the application of its charitable assets to charitable purposes. The purpose of the section is that there should be no restraint on establishing a charity, but that once a charity has been established the public trustee be notified so that he can monitor its compliance with charities law.

"Section 2 of the CAA empowers the public trustee to require a charity to provide information relating to its compliance with charities law. Upon the public trustee's receipt of notification under section 1 of the CAA, a charity usually is required, pursuant to section 2, to provide information annually on its assets, the application of its assets to its charitable purposes, and the names and addresses of the individuals who are responsible for the management and administration of the charitable assets.

"Historically, court proceedings were the only method of testing a charity's compliance with charities law and in such proceedings a charity and those individuals who are responsible for the management and administration of the charity assets bear the onus of proving compliance. Sections 1 and 2 of the CAA were enacted to enable the public trustee to obtain information without the necessity of court proceedings and those sections are key to the public trustee monitoring compliance.

"We have advised this charity of its non-compliance with section 1 of the CAA and requested that it provide information pursuant to section 2 for its last three financial years and hereafter without further request. The information the charity has provided is incomplete. In particular, it has failed to disclose the names and addresses of the persons who are responsible for managing and administering the charity's assets. In addition, the charity has reserved as to whether it will provide information to the public trustee in the future, notwithstanding its requirement to do so pursuant to section 2 of the CAA.

"In view of the charity's past and continuing non-compliance with charities law and its reservation as to whether it will comply in the future, the public trustee requests that consideration of the above-referenced bill be deferred until the charity has remedied its current reporting deficiencies and undertakes to comply with its future reporting obligations under the CAA.

"Yours truly,

"Eric Moore

"Director and legal counsel

"Charities division."

I have read this into the record so that there is a clear understanding that there are questions as to how this organization has conducted its business with regard to the law

around charities. Therefore, there is some concern about these irregularities being dealt with in a way that will be conducive to allowing them to continue in the future as an organization.

Mr Sutherland: I have a question to the applicants. Do you still have reservations about providing the information and will you give this committee assurance you will provide all the information the office of the public trustee is requiring?

Ms McIver: I am not aware of the correspondence regarding our charitable status. I have been on the board for three years and there has never been any correspondence during that period of time. I have been vice-president and I assumed the presidency two months ago. If there was correspondence, perhaps it was back in the 1970s. I was of the assumption that we were in compliance with our charitable responsibilities. You said 1964. We were incorporated in 1974. I am wondering if—

Mr Drainville: I am not representing the public trustee. I am not from their office. I am a little surprised that person is not here at this point. The concerns raised here are obviously major and it might be appropriate to defer a decision on this matter until the House reconvenes. That way these matters can be gone into in more detail. If you say you are not in receipt of this letter at all, it would be appropriate to make sure that you understand some of the things being said here and the gravity of the situation around them.

Ms McIver: We have no problem in complying with what is required to receive and maintain non-profit and corporation status. I am surprised. I am not aware of it and I am sure the rest of the board members are not aware of any correspondence on this issue.

Mr Drainville: Have you complied? Do you know that you have sent the information which has been requested in this document?

Ms McIver: I am not aware of the letter. We have not replied to what is in that letter because I am not aware of the letter. There has been nothing, no correspondence. I would have to find out who they were referring it to.

1030

The Chair: Mr J. Wilson moves that the matter be deferred until such time as the applicant is able to comply with the request of the public trustee.

Mr J. Wilson: I ask for a seconder for that motion.

Mrs MacKinnon: I will second it.

The Chair: A seconder is not necessary.

Mr G. Wilson: I have a point of information about the date of that letter and who it was sent to. Was there a copy sent to the Rideau Trail Association?

Mr Drainville: This letter was faxed to me. It was originally sent to Susan Klein, legislative counsel, explaining the situation. It does not state here who they were involved with in terms of their discussions and I do not have that information because I would not be party to that normally.

Mr J. Wilson: In fairness to the applicant, these things can get very tricky and I think for all parties concerned a deferral is appropriate, and there is a motion on the floor.

The Chair: That is what we are discussing. Any further discussion on the motion?

Mr Ruprecht: Yes. In deference to Mr Wilson and this motion, I think if we passed this motion the applicant would not have to return, unless there are questions of course, but Mr Wilson may be provided the opportunity to speak on that on behalf of the applicant, if the committee is so inclined. There may be a way out of this without having the applicant return to this committee.

Mr J. Wilson: Perhaps at the time Mr Wilson returns on behalf of the applicant we could consider also deferral of fees, and Hansard so records.

The Chair: Any further discussion on the motion?

Mr Drainville: Just to give some information, there was a c.c. sent to the Rideau Trail Association, so the question is, who is receiving the mail for the association at this point in time?

Mr G. Wilson: What is the date of that, Mr Drainville?

Mr Drainville: This is dated December 16, 1991. But they were also indicating that they had had other correspondence with the organization, so it depends on who was receiving the mail for the organization.

The Chair: Mr Wilson moved deferral. Until when?

Mr J. Wilson: We could leave it open ended until such time as the applicant feels he has complied with the request to the public trustee.

The Chair: On Mr Wilson's motion, all in favour? Opposed?

Motion agreed to.

The Chair: I am sure Mr Gary Wilson will be back shortly to convey a happy result on this matter.

Mr G. Wilson: Thank you, Mr Chair.

The Chair: Thank you, Mr Wilson, Ms McIver. Is Mr Christopherson ready?

Mr J. Wilson: Mr Harnick has been waiting since the beginning of the proceedings.

CHURCH OF THE TORONTONIANS ACT, 1991

Consideration of Bill Pr104, An Act to revive The Church of the Torontonians.

The Chair: Mr Harnick has a bill, Pr104. Mr Harnick, could you speak briefly to the bill and introduce the applicant. please?

Mr Harnick: This bill is an act to revive the Church of the Torontonians. The Minister of Consumer and Commercial Relations dissolved the corporation on July 17, 1979, for default in filing annual returns. The applicants represent that this default was inadvertent, that they were not aware of the dissolution until more than two years after it had occurred and that activity has been carried on in the name of the corporation despite the dissolution. That is the purpose of the bill.

I have with me counsel from the Church of the Torontonians. Joy Casey and Gary Shiff are here. I also

understand that the public trustee is aware of this application and has given his approval. If there are any questions, as I say, Joy Casey and Gary Shiff are here.

Mr Shiff: Mr Chairman, members of the committee, I think it would be helpful for the committee if we gave some background to this application for the reinstatement of the charter. It is my position that, unfortunately, much of the information that has been presented to the committee to date is irrelevant to the issue of the reinstatement of the charter. Nevertheless, it has been raised here, and we feel it must be addressed. It is our position that if the objectors are unhappy with the management, there are remedies available under existing corporate law, but because of that I feel some clarification is necessary.

The church was incorporated in 1974 and at that time it had approximately 75 members. As the church grew, unfortunately its management controls did not. The church also grew in terms of setting up congregations. It originally had one congregation. It now has three congregations under the umbrella of the Church of the Torontonians. There is a church in Scarborough, one in North York and one in Toronto.

In 1979, the charter was lost. It is our belief, because we cannot even determine exactly why, an annual return was not filed. It may have been sent to the wrong address, because the church moved between the time the annual returns were sent out and the time someone was supposed to look after it. At any rate, there was some inadvertence or oversight and the annual return was not filed.

In 1990, my firm was retained by the elders of the church to update its corporate records. As part of that process I did a corporate search and at that time it was revealed that the charter was lost. I contacted the public trustee's office and was advised of the steps to be taken to reinstate the charter. Certain filings were made and we were advised to obtain audited financial statements for the year ending 1990, which we did, and we filed with the public trustee's office. I will come back to that later, but we subsequently filed audited statements for 1988 and 1989 as well.

During the course of our filings with the office of the public trustee, it came to our attention that there were members of the church who were unhappy with the method in which the management of the church had been operated. At the instruction of the elders of the church, I was instructed to meet with the dissident group, if I can refer to them that way, or the objectors, with a view to attempting to resolve their differences. I had a meeting in my office at which time I disclosed the contents in my file and advised them of the steps I was taking to have the charter reinstated.

Unfortunately, at the same time, these objectors were sending very threatening letters to third parties and also parties within the church. Threatening letters were sent to the Canadian Imperial Bank of Commerce stating that if certain steps were not taken they were going to take legal action against the bank. The mortgagee was a company by the name of Wayne Safety. Threatening letters were sent to the board of directors, the church elders, and I was threatened as well. I was threatened that I would be taken to the law society if I did not take certain steps or if I attended certain meetings of the church. As a result of that, I contacted the practice advisory service of the Law Society of Upper Canada and was instructed that I should attend that meeting.

At the same time, we had some discussions with the objecting group with an attempt to disclose financial information. The board of directors and the elders of the church were concerned about the question of confidentiality, because under the tenets of the religion of this particular group you could not disclose who made donations to the church. That was a matter of confidentiality that would be kept only to those directors and elders of the church. Unfortunately we were not able to come to any resolution in that matter and I think the matter simply was dropped.

1040

I have had numerous discussions with Eric Moore of the public trustee's office and, as a result of a discussion, it was his view that it was in our best interests to obtain audited financial statements for 1988 and 1989. It was also his view that a business meeting should be held to put certain matters into motion. There was a meeting held on, I believe, September 29, and I think you may have a copy of the minutes of that meeting in the material. At that meeting auditors were appointed, new directors were elected and Blake, Cassels and Graydon was authorized to continue with the application for the reinstatement of the charter.

After the meeting, McCartney, Green, Vitero, who were the auditors appointed, prepared audited statements for 1988 and 1989. Those were delivered to the public trustee, I believe around November 15 of this year, and were circulated or made available to the members of the church within the last week or so.

Part of the concern of the public trustee was the lack of financial controls. As a result of the audits done there were management reports prepared of which I have a copy with me, and I can have that circulated. The management report also indicated the management action that was being taken by the board of directors. A finance committee was set up headed by a chartered accountant and virtually all have either been implemented or are in the process of being implemented in order that the church can continue and present audited statements in years to come on a proper basis.

There was also a question about designated funds. The church in 1990 and early 1991 found that its offerings were lower than had been anticipated, because of the recession. As a result, the offerings that had been made for specific purposes were then being used for the operating expenses of the church. Those funds have been replenished to the point of about 75%. There is a sum of about $56,000. I understand offerings have been made that are in excess of $35,000 to $40,000 and it is hoped by the end of this year or early January all the funds will have been replaced.

I believe the office of the public trustee has a copy of the management report and I believe was comforted by that. I also have a copy of a letter that I can also circulate, dated October 31, to Eric Moore of the public trustee's office, indicating what had been implemented on behalf of the church.

The objecting group launched a motion for the appointment of an interim receiver in November of this year. I believe there was a filing—I just received it now—to the clerk of this committee on December 13, which shows the

material that was filed on behalf of the objectors. What disturbs me is it does not show the material that we filed, nor does it show the results of that decision. I have a copy of the endorsement of Mr Justice Austin of the Ontario Court. It is very short and I will just read to you the two paragraphs that I think are relevant.

He starts off and says: "This is a motion, within an application returnable January 2, 1992, to restrain the activities of certain members of the church body....

"The complaints include permitting the charter to lapse, payment of salaries, lending money without interest, sending money to the US and failing to audit books.

"It appears that the matter of the charter is being looked after. As to the other matters, they are all internal concerns. The court is very reluctant to involve itself in such matters. The proper avenue for relief is, in the first instance, through the church procedures and offices."

In my view, this has been an extremely costly expense for this church. It has to retain lawyers and accountants and has had now protracted court proceedings. The withholding of this charter serves really no useful purpose. If the application is denied, the public trustee has indicated to me that it will implement the doctrine of cy-près and the real property will probably be distributed to another charity, another church.

The difficulty I have is that the objecting group complains about the lack of a charter and then it objects to its reinstatement. To me, this is an inconsistent and somewhat irrational approach. There are, in my view, grave implications for the church if this matter is refused. There is a mortgage that is maturing for the church in January 1992. In order for it to be able to refinance it has to have its charter in place. The public trustee, in a letter dated December 16, indicated he had no objection to the application for the reinstatement of the charter.

Finally, I would ask this committee to consider favourably our application for the reinstatement. Thank you.

The Chair: Thank you, Mr Shiff. Are there questions of either the solicitors or the sponsor of this bill? Mr Sutherland.

Mr Sutherland: No, I would like to hear the other group that is coming forward first before asking any questions.

Mr Ruprecht: I have a quick one, if possible, of the solicitor. You mentioned something about donations that may be made to a charitable organization or a church that do not have to be listed, meaning do not have to be identified. What did you mean by that? In other words, if I wanted to make a donation to a church, do I get a receipt?

Mr Shiff: It is a question of disclosure. Yes, you do get a receipt. But the question was, should the entire church know who has made donations within the church and how much, to what level? That was what I was referring to. If I, for example, have made a donation to the church, I would get a receipt at the end of the year. The concern was, if I have made a donation to the church, do I want other members of the church to know that I have made a donation and the degree, how much, the quantity? That was the concern as to the confidentiality.

Mr Ruprecht: If a bona fide church member would ask that question of the treasurer of the church, must he disclose that information or not?

Mr Shiff: No.

Mr Ruprecht: He can simply say, "We're not."

Mr Shiff: Under church law, if you were to go to the treasurer of the church and say, "How much did Gary Shiff give to the church?" that would not be disclosed to you. That would be a matter between myself, I guess, and the church.

Mr Ruprecht: But as far as the government is concerned that amount would have to be disclosed in the financial statement. Is that correct?

Mr Shiff: Absolutely, but in a global amount, not specifically your name or my name with the amount. But on the financial statements, yes, of course. They would know how much they received.

Mr Ruprecht: So even the government looking at the global amount, would not know who made what amount available to the church or what donation to the church?

Mr Shiff: A tax receipt is issued at the end of the year.

Mr Ruprecht: I see. Thank you.

The Chair: Any further questions? Hearing none, we seem to have a number of objectors, gentlemen, if you would not mind allowing them access to the microphones. We may have further questions subsequent to their testimony. I believe we have Mr Peter Teoh, Mr Edward Mason, Mr Quentin Ng, Mr Rong-Kai Hong and Mr Tian Tin Sy. If there are other objectors who wish to speak before the committee or who do not feel themselves to be represented by the gentlemen present, please indicate. Could you, for the purposes of Hansard, please identify yourselves into the microphones.

1050

Mr Hong: My name is Rong-Kai Hong and I am one of the objectors in one of those letters we wrote to the public trustee and to the Clerk of the Legislative Assembly.

I would like to state our position first today, because it seems to me what Mr Gary Shiff has said about our position is contrary to our actual position. We are not here to object reviewing the statement of an accountant. We are basically asking the chairman and the members of the committee to consider withholding this application until the court matters and some of the financial and management matters have been fully resolved within our church.

Unfortunately, we have approached the management of our church and made significant efforts repeatedly over the years internally, but we could not get any reply at all. We were obliged to seek court action, and we regret that this costs significant amounts to ourselves and to certain members of the church. Unfortunately, that was the last step we could take.

Mr Gary Shiff said something of our inconsistent position. I would like to clarify that first. We are not objecting to the reinstatement of the charter. We want the legal matters and all the management matters to be resolved. For example, the audited financial statement of 1990 reveals there was a significant amount of money paid to one director of our church and paid to many members of our church who

referred to themselves as co-workers. This payment, I understand, was paid as salary for this service to the church, whatever service that is. However, those people have disguised the payment under "Gift to co-workers" and they are not taking any tax deductions. They are ripping off the government. There might be serious tax evasion in this aspect, and we are still seeking legal advice to resolve this issue.

Furthermore, there has not been proper maintenance conducted in the past few years. The minutes of the corporation were completely falsified. I will just give one striking example of how the minutes have been falsified. We requested the secretary to give us the minutes of the corporation. Of those particular minutes of the corporation, we inspected the most recent one prior to 1991; that was 1990. The meeting was conducted in November 1990. It recorded there was an election and there was unanimous voting for the directors. In fact, that was not true at all. It recorded zero votes against the election. Many objections were expressed, and those objections were unfortunately suppressed. The members were deprived of their privileges.

This is a charitable organization. The latest patent which this charity was initially granted states clearly and expressly that the organization is to operate without any gain to the members, without any gain to the directors, and is exclusively for charitable and religious purposes. All of those have been violated. They have been badly violated. We are shocked, and that is why we come here to ask members of the committee to really look at both sides of the story.

I can go on and on, but I would just like to mention a few of the points we would like you to consider. When we discovered a significant amount of wrongdoing, breach of trust and nepotism from the 1990 audited financial statement, we suspected there were further misdoings in the previous years. We repeatedly requested the management to release the audits of previous years so that we could assure ourselves that the management and financial affairs had been taken care of properly and that the community was not affected and that the privileges and rights of our membership are properly protected against all those tax evasion matters.

Our request was refused until the public trustee required the audited financial statement for 1988 and 1989 to be done as well. To our dismay and to our utmost shock, after the audited financial statement was available, the management did not want to circulate a copy to the members. They basically only kept a copy and said, "You can come and review it."

Yesterday I found out the reason why they did not want to distribute the copies to the members. It is because after we commenced legal action, our solicitor actually was able to secure a copy from the opposing counsellor, that is, Blake, Cassels and Graydon. I would just like to read one statement of the auditor's report. It says:

"We were unable to satisfy ourselves that all expenditures of the church had been recorded, nor were we able to satisfy ourselves that the recorded transactions were proper. As a result, we were unable to determine whether adjustments were required in respect of recorded or unrecorded assets."

Recorded or unrecorded liabilities: In the components making up the statement of revenue and expense and surplus, the whole financial statement has been a mess. Furthermore, the church charter has been lost for 12 years. The management continues to issue tax receipts for deductions for the donations members make to the church. They have placed those members in serious violation of Canadian tax laws. We go to a church and those people represent to us that donations can be made to the church and tax receipts can be issued. In fact, those tax receipts are not valid. This is a very dangerous thing for the members to get engaged in.

I can go on. The management claims it was not aware the charter was lost in 1979. However, I doubt that they were not aware. I can point out one instance why I doubt they were not aware. First of all, in 1985-86 a mortgage transaction was obtained by two members of the church who did not have any authority of the membership to close this mortgage transaction. Furthermore, a collateral was placed on the church assets.

I have asked my legal counsel to inquire what the proper procedure is in order to place a lien on a property. My legal counsel has advised me, and I verily believe this, that in order to place a lien on a property, the lawyer for the purchaser and the lawyer for the lender have to verify that the title of the land is good and is valid. It is unlikely for both lawyers to miss that point, because this involved a substantial transaction.

Furthermore, why did the management go ahead to secure a mortgage from a private company at a high interest rate, higher than what could be obtained in the financial market at that time? The fact that they would not want to go to the bank but instead went to the mortgage company really compounded our concern. It appeared to me that a bank would first of all refuse to look at this mortgage transaction because the assets are worth over $6 million and the loan was only $300,000. If the title of the land was good at the time, all financial institutions would jump at this opportunity. The fact that the banks would not loan money to the church at that time really signalled to me that something was improper there and it was not disclosed.

Furthermore, Mr Gary Shiff spoke about the election; that is the most recent election, three months ago. I would like to point out to you the irregularities of that election. First of all, we informed the management, we told them the charter has been lost and therefore there is no legal entity at the present time which we can call the Church of the Torontonians. As such, an election on behalf of the Church of the Torontonians would not be meaningful because that entity does not exist at the present time. We told them we have to wait until the charter is reinstated. We will call a proper meeting and elect officers properly.

1100

They agreed to our suggestion and we unanimously agreed that no election would be conducted. Immediately after our agreement we made the announcement to the proper congregation that involved a significant number of the church members who were aware and informed that no election would be conducted.

As a consequence of that, some of those people who might have been waiting to stand for nomination or election

were not present and were never aware of that, so we question the validity of that election. We are in the process of legal action to rectify some of those problems.

In closing, I would like to point out that we are in the middle of legal action. Legal action has been commenced and there are some other actions we shall commence. One we are thinking of commencing is that the church has been used as a conduit for a private member to make investments. Again, this is contrary to the express purpose of our charity.

If you have the letter we submitted to you yesterday—it is in a package—I would like to point out one particular instance of that, if I have your co-operation. I direct your attention to exhibit C of this package dated August 20, 1991, to the director of charities, Ministry of the Attorney General, to the attention of Mr Eric Moore.

In tab C, exhibit C, if we go to the very last few pages of that exhibit, there is an appendix C. There is a letter dated June 17, 1991, addressed to the board of directors of the Church of the Torontonians. This clearly pointed out the church had transferred money to the United States and is using our charity money to support people in the United States for personal investment and personal gain.

The auditor's report on the bottom of this page says, "There could be two ways of interpreting this transaction based on substance." The first interpretation says, "Under this interpretation, the church acted as a conduit for Robin," who was the member of a church involved in this particular transaction. I do not particularly want to mention his name, but since his name is in here, I do not believe there is confidentiality as to what Mr Gary Shiff has addressed earlier.

Now it says, "Acting as a conduit for transactions of a personal nature does not constitute a charitable activity." Again, this is completely contrary to and in violation of the latest patent, upon which our charity was initially granted in the 1970s.

I would like to sum up our objections. We are not actually objecting to the reinstatement of the charter. We are basically asking the committee to withhold the application until the matters are resolved. The charter has been lost for 12 years and we are in the process of straightening it up.

It would only take a few months for us to fully resolve the issues and I do not quite understand why, after losing the charter for 12 years, we cannot wait for another four months. I do not know what kind of jeopardy and damage will be done to the church. Members of the committee, I would like you to consider these submissions I have just made. Thank you.

Mr Mason: I would like to mention our reasons for objecting to the passing of the bill at this time. It is because in our opinion there has been mismanagement of church affairs, especially in the financial department. Over $100,000 of designated funds were misused in that they were to have been sent to the poor saints in Africa but were never sent; funds that were to be sent to the church in Taiwan were never sent and funds for St Catharines and Montreal were never sent.

The church was used as an investment business. Money was transferred through the church to invest in a private business in the United States. The church was used as a loan company. A brother was given a large amount of money to invest in real estate and part of the money had to be borrowed from the bank. There were many other things, and all this was done in secret without a proper general meeting to ask the members of the church if this was proper and right. The board of directors, the elders, just got together and made their own decisions without consulting the members.

Our main reason for objection is the way the funds and the management of the church have been run by these directors and elders. This is what we object to.

Mr Sy: At the very beginning, I tried to clarify some of management's financial problems, and I was systematically organized, suppressed and threatened not to go on.

Mr Hong: If I could clarify that point, after four of us volunteered, we said the faith of the community cannot be affected and the faith of people had to be protected from those abuses. Four of us volunteered our time at big expense. We took it upon ourselves to investigate the church's management and financial affairs. In this investigation we were suppressed. One of us, Mr Sy, was actually threatened by two elders of the church. Those two elders went to his home to make threats. They said, "If you touch the books of account of the church, we are going to pick up your own books of account for investigation." It really shocks me, because we feel we are entitled to investigate the books of our church. We are members of the church, we make donations to the church and we want to make sure our donations are used in accordance with our intended purpose of charity.

After the management had committed so much negligence, so much breach of trust, that was the cause for us to start this investigation. Once we started this investigation, they threatened one of the people who initiated the investigation of these books of account. The person being threatened, Mr Sy, made an affidavit yesterday to the effect that he was being threatened. There was undue influence exerted by the management of the church to stop our investigation. This really compounded our concern. Why would church management bring this undue influence and threaten to suppress our privilege and right to investigate the books of account?

We do not do this for any personal gain; we do not do this for any gain at all. We are doing it on behalf of the members. We feel the members have to be protected and we do our best. We basically do our duty to make this investigation and we are shocked that the management has threatened and brought undue influence to stop us.

Mr J. Wilson: I want to thank the objectors for bringing forward their concerns. However, I have a couple of concerns. You started off your presentation by indicating you wanted us to hear both sides of the story. In the documentation you have provided to the committee, the other side of the story, all your letters to Mr Moore, for instance, there is never a response in the documentation. What did Mr Moore say to you? Second, you had a motion before the court in November and I understand that was thrown out. The judge's order is not contained herein. You have another motion before the court for January.

I would comment that the remedies you seek are most appropriate in court, not in this committee. I think you may have some very legitimate concerns about misappropriation of funds and mismanagement at the church, but the essential question before this committee is whether we should grant the church a charter. I do not understand how our allowing the church to have its charter back would in any way jeopardize your court case. In fact, I see it enhancing your court case because then you would be dealing with a legal entity. The only question before this committee, despite all your concerns, is whether we should grant the Church of the Torontonians a charter. Whether someone has been wronged by the church is a matter for the courts and you have a matter pending before the courts. I do not understand, as I say, how granting the church its charter, reviving the charter, would in any way jeopardize your case before the court.

1110

Mr Teoh: We are not trying to object to the charter, as my friends have said, but just to wait until the whole matter is resolved. That is why we are asking for postponement of reinstatement of the charter until all the matters have been resolved. It will have a psychological influence on the members if the charter has been passed, because they are going to go back and say, "See, we are still in control."

Mr J. Wilson: One other point has been brought to my attention by the sponsor of the bill, Mr Harnick. Is not the mortgage of the church in jeopardy in January? You cannot renew it unless you have a legal entity. You may end up not having a church at all to take before the courts. I see the charter as a very separate issue to the mismanagement. Now, it may be of some emotional effect—

Mr Teoh: On the members.

Mr J. Wilson: On the members, but this is a legislative committee. This is not psychoanalysis, and we have to deal with a legal question.

Mr Hong: May I just respond? You see, the church management has committed so much breach of trust and negligence and they still continue to try their best to stay in the management position. In fact, they are trying to get the charter back into their hands and we are worried. If the charter gets back into their hands, are they the right people to receive this charter? Are they the right people? Would they commit further wrongdoings in the future? We feel a proper election has to be called and proper officials elected.

Mr J. Wilson: You said in your own testimony that you did not feel the previous election was proper because the church was not a legal entity.

Mr Hong: Right.

Mr J. Wilson: How are you going to hold an election if we do not grant you the charter?

Mr Hong: We need people to whom this charter can be granted.

Mr J. Wilson: But what comes first, the fact that you will have a church with a legal entity so you can hold an election and elect officers to that legal entity, or do you continue to operate in a void and have invalid elections, according to your own testimony?

Mr Hong: The previous election was improper because it was basically conducted with a purpose to make retroactive all the past transactions.

Mr J. Wilson: You said in your testimony that you also felt it was invalid because there was no entity called the Church of the Torontonians.

Mr Hong: That is right. I guess, because of all of those reasons together, we feel it was invalid.

Mr J. Wilson: So would it not be better to grant the charter, which is the question before this committee? In my opinion, it would not jeopardize your court case in any way. You have some complaints that a court should properly look at, although you are going to have to convince a judge to accept your motion. I am just trying to keep it to the question before this committee. It seems to me your own testimony was somewhat contradictory, and confusing politicians is not a good thing to do because, God knows, we are confused enough as it is.

Mr Hong: I did not think I was that confusing, but let me just clarify, if I can. Our objection is that we have to withhold the charter until the members can agree in a proper manner and nominate who is going to be the management of the church, so that those people who go into the management are fully trusted by members. Of course, in that election we do not know at this present time who are the members of the church because there is no bylaw of the church. The election was improper because of so many things put together. We feel we have to straighten out those issues before we will go to get the charter back. I do not know if I have clarified some of it.

Mr J. Wilson: I think I understand. I hope you understand where I am coming from.

The Chair: Mr Harnick, you indicated you were wishing to ask a question?

Mr Harnick: No, I do not have any questions, but I know that counsel representing the Church of the Torontonians would probably like to make some response and clarify some of the issues.

The Chair: We can do that if the members have further questions for them. Mr Ruprecht.

Mr Ruprecht: This must be difficult for you to appear here before a public body, from a church whose whole idea would be an existence essentially to somehow ensure that there is love and forgiveness and all these kinds of things, to take on the establishment within the church. I am somewhat sympathetic to you and I guess my questions will point that out. You know by doing this the church is going to get pulled through the mud, yet at the same time you have made that decision by requesting that this committee hold up the charter. So even within your church I think it would be difficult because there would be various factions there.

My first question to you is, how many members are there in the church? Do you know?

Mr Hong: That is the first issue we have to straighten out before we like to see the charter granted. The way it appears, anybody can be a member of the church, because there are no membership dues, there was no admission, there was no procedure done to admit members at all. We

just do not know who are the members in a strict sense, because some people go to church every Sunday and some go to congregation once in a while. But we do not know who are really the members with voting qualifications.

Mr Ruprecht: How many are attending the church, then, that you see roughly?

Mr Teoh: Recently there has been a drastic drop.

Mr Ruprecht: Give me some idea.

Mr Teoh: Right now at the church in North York I would say 100, 150.

Mr Ruprecht: So it was 150 in North York and how many on Spadina?

Mr Teoh: You have to ask the other people.

Mr Ruprecht: Roughly.

Mr Teoh: I have no idea.

Mr Ruprecht: What numbers are we talking about here?

Mr Mason: I do not know, maybe 80 in Spadina and 30 or 40 in Scarborough. The majority of the members are in North York, but we have the three churches and actually one governing body in North York.

Mr Ruprecht: And you feel that as church members you should have the right, as bona fide and upright members, I assume, to get information from the church? That is correct? I am assuming that you went there and asked for information and you have been, from what you have said, almost misled. Correct?

Mr Hong: Yes.

Mr Ruprecht: That is why you are really making the charge here and that is why you want to hold up the charter?

Mr Hong: That is right. That is correct.

Mr Teoh: May I just interrupt? Mr Shiff said that the drop in the donations is due to the recession, but I would like to contradict that by saying that the drop is due to many members having a mistrust in the management. They have lost their credibility by what they have done. So people are not going to offer, knowing the money they have offered might not be used in the way they wanted it. A lot of people have withheld donations for that one reason. It goes for me as well. If I was going to donate something for a certain purpose, if I do not trust the people or that organization with the money I have designated, then I am not going to do it.

Mr Ruprecht: I have said before, it takes a great deal of courage for you to appear here and to seek what you term to be some sense of justice and to do things right, and I appreciate that. I will stop my questioning now, but what I would like to do is to question the officials of the church once they respond to the objectors.

1120

Mr Hansen: I have read most of the material I received last week and I am very confused on a lot of it. The one thing that seems to be confusing is that you talk about your charter and how you do things. Here in the House we have certain language that can be used, certain procedures we use. Is there something laid out on how a member becomes such or how a member is in good standing, how he is accepted into the church?

It sounds like you are saying there that, "We don't know who our members are." There has to be some way of designating who a voting member would be and how far in advance you have to call a meeting to vote in new trustees, or I think you call them "saints" here. These matters are confusing. As objectors, are things changing in the church that you can see through what you have objected to so far?

Mr Ng: Can I answer this question? If you have a chance to look at the minutes of the churches for the last 10 years you will be very surprised how they handle all the general meetings. All the records show they are not serious, not serious at all—not counting the numbers of members, not writing anything down, just a couple of sentences and that is over. So the whole thing is very incompetent or not serious at all. According to the simple one or two requirements of the church, any Christian can be a member of the church.

Mr Hansen: But who can vote?

Mr Ng: All the members can vote.

Mr Hansen: If I walked into the church on a Sunday—

Mr Ng: If you are a Christian, you qualify as a member.

Mr Hong: You might vote that one particular week.

Mr Ng: That is right. You might be allowed to vote.

Mr Mason: Can I ask you a question? We would like to have an open, honest election of directors selected by the members of the body. So far we have not been able to do that. If we could get some ruling on this matter as to who is and who is not a member and those who qualify, those who have been attending meetings regularly, say for the last 10 years, who are citizens or landed immigrants, not visa students, that those eligible in a municipal election be able to vote in the church election of directors—If we could get such an agreement, then we would certainly agree with electing of directors.

In fact, they insisted that the elders and the directors be one, which is really contrary to Scripture. The elders are those who govern the church, the directors are those who govern the corporation. They went around telling the young ones that they had to elect the elders as directors, giving them too much power and too much authority. They have been able to manipulate and arrange things their own way, not allowing members to speak in the meeting, just standing up and shouting and shutting them down. Not allowing them to speak freely in this country is, in my opinion, not right. This has taken place not once but twice, maybe even more. I know of two instances where members of the church have been members in good standing for many years, stood up in a church meeting to share the Scriptures with the members of the body for their edification and were shut down. This is not right before the Lord.

Mr Hansen: I am not trying to take sides but maybe give a little bit of advice in the sense that the church has to come together. The objectors, for and against, have to sit down and come to an agreement. Call a general meeting and everyone decide who is a member, who is one that can stand as an elder.

Mr Mason: This is what we want.

Mr Hansen: They sound like simple things but, if they are not in place, there is just confusion, which is what I can see in the church. It is just mass confusion because you do not know how to follow any procedure on how a member is elected or how the finances are directed and who gets paid what. Until that is written down, you make the rules as you go along and next year it is different.

As I say, we are governed here at Queen's Park and there are members who try to step out of that spot every so often, but the Speaker usually brings them back in. We are used to being like in the army in the sense of following orders.

Mr J. Wilson: It must be your caucus.

Mr Hansen: I think the question that I asked from the objectors would be the same one that I would ask for the body that is wanting this granted.

Mr Drainville: I want to make a few comments. I am a member of this committee as well as being the parliamentary assistant for the Minister of Municipal Affairs. Probably around this table or in this room, I have had more experience with these kinds of things. I am also an Anglican priest and have been rector of parishes over the last decade and have some knowledge of these laws as they apply to churches.

I have some very, very grave concerns, first off, about the charges that have been laid, and also the fact that you have gone on so long without redressing these problems and dealing with them. That is not only bad business practice but it is also illegal and I think that is so serious. In fact, we are really put in the situation, unfortunately, of having to deal with issues that we should not be dealing with at all on this committee, and that is the nub of the issue.

In terms of membership, which is an issue that has been raised by Mr Hansen, this is always an issue with every church across the board as to who is a member of a church for the purposes of making decisions for the church. Every church handles it in a different way, but it is always a nebulous area and there are very few churches that are able to define it in such a way as to make it an easy task of ensuring that the proper people make such decisions.

It is my own personal view, which I have discussed a little bit with legal counsel—in terms of the mortgage that is going to be coming up, am I right to assume that this mortgage that comes up in January is on the church building? My understanding is, from talking to our own legal counsel, that if such a charter is not granted you will actually face the possibility of losing that church building.

I am not asking for a response. I am trying to make some comments at this point.

The Chair: Are they allowed to respond to you?

Mr Drainville: Yes, after I am finished. I just wanted to say that in terms of that, it is to nobody's benefit, as far as I can see, for the church building to be lost. However you resolve your differences, which are many, you will have to have a church building and it is not to your benefit to see that church building end up out of your possession.

We can make no disposition as to the questions or the discussions or the problems that you have outlined to this committee. It is not the role of this committee to look at any of those things, grievous though many of them are.

My last comment would be as a person who has been involved in the church for many years. Seeing this kind of open rift and fight between two groups is no testimony to the things you are espousing. That being the case, I think that on our side, from what I can see, it would be in the interests of all people concerned to see this charter put forward and given, and that you resolve your differences in the court of law and continue to do the things you need to do to resolve them as quickly as possible so that you can get on with doing the work you have intended to do.

The Chair: Mr Hong, would you like to respond to Mr Drainville's comments?

Mr Hong: First of all, I would like to comment about the mortgage. The mortgage transaction was done without the members' authorization. The members may not own a mortgage at all. Where did the mortgage money go? The church management has completely covered up the financial statement so that we cannot see where that money went. Where did it go? The year 1990 shows money went to the United States, money being paid to our director although he is strictly prohibited from doing so. The way we see it this is really abusing the privilege of the members because we put our money to the church. Church management entered our money as a liability. They did it without our knowledge and we are very concerned.

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Mr Drainville: We have discussed this at length and I just want to respond in two ways. First of all, in your discussion with the trustee, the trustee has indicated that no objection is being made. That is the first thing.

The second thing is if you continue to be a member of this church and you want to see changes and you want to see these things done, then you have to work within the church whatever way. If you want to go to court, you do it, but it is not up to this committee to decide on that particular issue.

The Chair: Mr Harnick, were you wishing to pose a question?

Mr Harnick: No. If you do not mind, I would like to respond to what Mr Drainville has said. I think what Mr Drainville has said is quite right. This committee cannot make decisions over legal matters.

The Chair: Thank you, Mr Harnick.

Mr Harnick: I am the sponsor of the bill and I am entitled to speak.

The Chair: You can sponsor the bill but the sponsors have not been required to come forth yet.

Mr Harnick: I would also like to say something in response to Mr Hansen. What Mr Hansen has said is quite right. There is a difficulty here with rules. The idea of having this charter will now provide the church, regardless of what side you take in the argument, with the framework for the rules, so if there is going to be a change on the executive or the board, it will not be possible.

Without those rules being in place the resurrection of this church becomes impossible, because you do not have any entity with any rules that have to be followed. In fact,

the people who are objecting will have a much greater opportunity to be able to force the changes they want if there is a framework to do it within.

Now one of the difficulties they have I believe is that they have no framework, and it may well be that when the charter is reinstated—if this committee deems it is the right thing to do—you are going to help these people and save them a whole lot of money if they can solve their problems without having to revert to a long and difficult court proceeding.

There may be a dual purpose served. I notice that each of the people who spoke indicated he was not objecting to the reinstatement of the charter. They have perhaps very legitimate concerns that are going to be addressed in a court of law, but it may well be that the reinstatement of the charter can save them a lot of time, a lot of money and a lot of aggravation, because they may well, with that in place, be able to solve their problems.

I appreciate that the Chairman thinks I am here for a sinister purpose, but I am not here for a sinister purpose. I do not take sides between either of these groups.

The Chair: Mr Harnick, I asked you not to respond while we had the objectors here, to wait until they were finished. You took it upon yourself to represent the applicants and yourself as the sponsor and did not wait until the objectors had finished, until we had posed all questions to them. If you wish to take charge here, then you have the opportunity to be elected to that position.

Mr Harnick: Somebody should take charge here.

The Chair: I did not impute to you any sinister motives. I simply said that we had questions for the objectors, and you, sir, are out of order.

Mr Hansen: I have to say that this has been a very delicate situation and sometimes some items that come before this committee are dealt with in a little bit different light. This is a very serious one we have here. We would like to see the people who come forward walk away as one. It is very important that my friend over there has a chance to explain that. So have maybe a little bit of patience here, Mr Chair.

The Chair: I quite agree with you. Are there further questions for the objectors?

Mr Ruprecht: I had my hand up.

The Chair: I did not know if you were speaking to the sponsor or to the objectors.

Mr Ruprecht: What difference would it make? When a member of the committee raises a hand, you are supposed to write it down and follow a certain order so that we do not constantly get into an argument.

The Chair: Go ahead, Mr Ruprecht.

Mr Ruprecht: Thank you, Mr Chair. I wanted to address myself to the point that was raised by Mr Drainville, who really makes an interesting comment. I have two questions now. One is to Mr Drainville, who I am not sure speaks on behalf of his minister, or as a former or present church—

Mr Drainville: I am also a member of this committee.

Mr Ruprecht: Yes. But you are raising an interesting point. What I would like to find out from Mr or Rev Drainville at this point is, when he made his comments, did he make his comments as a church member, a member of the committee or the parliamentary assistant to the minister?

Mr Drainville: Certainly, I did not do so as the government, because the government has no objection to this and neither does the public trustee, which I said. What I have said is that I am on this committee, and as a member of the committee I am responding to the things that have been said up to this point in time.

Mr Ruprecht: Okay, we have got that clear then. As a member of this committee, Mr Drainville raises a pretty valid point, and that is, if this charter is not reinstated until the deadline for the mortgage, which I think is January—Dennis, what is it?

Mr Drainville: January, I have heard.

Mr Ruprecht: Okay, January, or whatever date it was—then the church may lose its building. I think that is what you have indicated. Is this the case? Can you respond to that?

Mr Sy: No. The church would not lose the property. The mortgage is only $228,000.

Mr Ng: Really, it is a small amount.

Mr Hong: There is a very small amount of loan on that building.

Mr Ruprecht: Then if I have this correct, and maybe you can help me out on this, Mr Drainville, because you raised the point, by withholding this charter, if we were to move in that direction and to indicate that the parties should get together to try to work something out, the church is not losing its building.

Mr Hong: No.

Mr Ruprecht: That is the impression I get. Mr Chairman, we now have the word from the objectors. If they are finished, I would like to have the same question asked, without having to repeat myself, of the present church elders.

The Chair: Were you asking that question of the applicant?

Mr Ruprecht: However you want to handle it.

The Chair: Mr Shiff, could you respond to the question in regard to the mortgage?

Mr Shiff: The amount outstanding is $288,000 and where I come from that is a lot of money. Second, they will lose the land and building if that is not repaid, there is no question in my mind.

The Chair: The renewal date, Mr Shiff, is?

Mr Shiff: I think it is January 28. I am not precise on the date. But just to point us to the fact of how the mortgage got on the place, because it relates to this whole question of the mortgage, the lawyer for the lender has called me in the past and is obviously quite concerned about this, because if there is a problem, he will have to—there is some issue of negligence perhaps in this matter.

We certainly were never involved in this. This took place a long time ago. Someone went ahead and authorized a mortgage without realizing there was in fact no charter in

existence. There are other people who are obviously very concerned about what is going to happen today.

Mr Ruprecht: Mr Chairman, it seems to me the objectors are saying they would not lose the property. I am not sure what Mr Shiff said. Perhaps you can come back, Mr Shiff, because what I understood here, and this is the crucial point for my decision—because I will tell you quite honestly, Mr Chairman, if I think the church is not losing its property—I am not sure how Mr Hansen will respond to that later with his question—I would be inclined to vote to hold back the charter. So it is very crucial, Mr Chairman, that I get an answer—I am not sure about Mr Drainville or Mr Hansen—to figure out whether the mortgage, if due on the 15th, would jeopardize the church building.

Mr Shiff: I do not act for the mortgagee, but if I did and I did not receive $288,000 on January 28, I would immediately commence foreclosure and/or power of sale proceedings and have that building sold and take the money from that and try to recoup my investment. There is a problem in that and I think it is going to end up in protracted litigation, because the public trustee will take the position that the land perhaps is escheated to the crown and therefore it is the crown's to sell. Then you will have some significant litigation over this issue. There is no question in my mind about that.

Mr Ruprecht: Mr Shiff, if that is the case, in your knowledge has this church been in a situation like this previously where it had not paid on time and consequently this process would take place immediately? You are saying: "That's it. On the 15th, immediately there is going to be a power of sale."

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Mr Shiff: They will start proceedings is what I said. That is correct.

Mr Ruprecht: Have they been—

Mr Shiff: Making monthly payments? Absolutely.

Mr Ruprecht: Have they ever been in arrears?

Mr Shiff: No.

Mr Ruprecht: You would stand there and advise this committee that because of the default of one mortgage payment—

Mr Harnick: No, that is not—

Mr Shiff: No, it is maturing.

Mr Ruprecht: That is the issue here, Mr Harnick. That is the issue for me.

Mr Shiff: The mortgage is maturing and we must pay out the full amount of the mortgage.

Mr Ruprecht: That is what we are trying to determine.

Mr Shiff: It is not a default in a monthly payment.

Mr Ruprecht: I see.

Mr Shiff: The mortgage has come mature now or will come in another five or six weeks.

Mr Ruprecht: In 128 hours and 30 seconds. I understand. Thanks.

Mr Harnick: It is the renewal of the mortgage. They will not renew it because—

Mr Shiff: The mortgage company will look to its payment. It will want someone to pay it $288,000.

Mr Ruprecht: Okay, thank you, Mr Shiff. I think I understand that better now.

Mr Hong: Mr Chairman, can I speak?

The Chair: Yes.

Mr Hong: I want to contradict what Mr Shiff has said strongly and clearly. He said if the payment is not made, then the church will lose the property. That is completely false and totally without grounds. Now, Mr Shiff, you have been a lawyer. Please listen to my explanation. This mortgage transaction was—

The Chair: Mr Hong, you are addressing yourself to the committee, not to Mr Shiff.

Mr Ruprecht: That is okay, Mr Chairman.

Mr Hong: I am sorry. Okay, but I want him to listen to this explanation too. This mortgage transaction had personal guarantors on it. I do not know why they got together to make this transaction. They did it anyway without the consent of members. I am of the opinion that if anybody wants to sign himself as the director of a charitable organization, as an officer of any charity organization, it is a big responsibility that person involves himself in. If he involves himself in such a position in committing negligence, in breach of trust, I do not know what the consequences would be.

But if somebody tried to mortgage out a property of a church without the consent of the members of the church, that is something anybody who wants to represent himself to be any officer of a church should not do. When the land was forfeited to the crown, they mortgaged the property. They pressed a lien on the property. This is just like mortgaging out the CN Tower and the SkyDome because that mortgage transaction was not valid and the mortgage company will not have any position to take power of sale or foreclosure because the mortgage transaction was not valid.

Mr J. Wilson: Do you think he is just going to walk away and not want his money?

Mr Hong: They would sue the personal guarantor, and as the lawyer pointed out, the lawyer might have committed some negligence, so the lawyer will be responsible for it.

Mr Ruprecht: What do you think is going to happen? That is my last question. What do you think is going to happen on the 15th? What is your thinking on this now? We have got one position saying immediately there is going to be a power of sale instituted, right? What would be your thinking on that?

Mr Hong: No. If I were the person who is lending the money, I would go to those people who signed the mortgage transaction and say: "Listen, what is this? Have you got the membership approval to make this transaction?"

Mr Drainville: We have dealt with this I think quite adequately at this point in time. I appreciate your point of view. It does not give me very much hope, as I have talked to legislative counsel and I have asked their particular view on the legalities of this situation. I might have more confidence if you were a lawyer as well and were in a sense representing these interests from that perspective.

We have discussed this and I move that the question now be put, Mr Chair.

The Chair: All in favour of the question being put?

Mr Ruprecht: Mr Chair, are there any other objectors?

The Chair: I asked that at the outset and none appeared.

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Title agreed to.

Bill ordered to be reported.

The Chair: I would like to thank the sponsor and the applicants and the objectors for their testimony. Thank you.

CITY OF HAMILTON ACT, 1991

Consideration of Bill Pr118, An Act respecting the City of Hamilton.

The Chair: We now have Mr Christopherson, who is sponsoring Bill Pr118, An Act respecting the City of Hamilton. Mr Christopherson, could you introduce your colleagues as well, please.

Mr Christopherson: I am pleased to be here with a delegation from the city of Hamilton. Mayor Robert Morrow is here to speak to the bill and answer any questions the members might have. Also with us is the city solicitor for Hamilton, Ms Patrice Noé-Johnson. Hyphenated names I still have a problem with, Mr Chair. I am used to one nice long name with 14 letters like mine. When you start throwing hyphens in I get confused.

The matter before us is, I hope, relatively straightforward. It would enable the city council of Hamilton to change the makeup of the Hamilton Entertainment and Convention Facilities Inc board. The mayor would continue, as you can see in the explanatory note, to be a member of the board, but there would be no more than four members of city council appointed. To provide some background and perspective I will call on Mayor Morrow.

Mr Morrow: There are actually three parts to the suggested bill: (1) the makeup of the committee and our desire that there be greater flexibility on the part of the city's ability to appoint citizen members to the board, (2) a change in wording with respect to the jurisdictional responsibility between board and administration and, probably the most significant, (3) the repealing of a committee structure that has not worked to the benefit of this municipal corporation or the people of the city.

It really has caused a loss of revenues, and we are anxious to now move into the future with a new structure, based on function as opposed to specific building. There are three components of this board: the Copps Coliseum, which is the largest facility of it kind in Canada, our Hamilton Place theatre auditorium, which is almost 20 years old, and our very successful convention centre, which is right in downtown Hamilton as well.

After a great deal of work, both at the policy level and the staff level, we now have a structure that works well and that we want to support through the suggested bill presented by Mr Christopherson, so it is before you for your consideration.

Mr Christopherson: I would just point out that all these wonderful facilities happen to be in the riding of Hamilton Centre.

Mr J. Wilson: Your worship, I just have a quick question on the composition of the board: I note you are asking that it be reduced from seven council members to not more than four. What is the total composition? How many citizen appointees?

Mr Morrow: A total of 17.

Mr J. Wilson: A total of 17? That is not expanded here. You are just reducing the number of councillors?

Mr Morrow: The number of councillors with the ability to appoint as many private citizen members as we feel are required.

Mr J. Wilson: That is what I am asking. Is 17 the limit? I happen to know that these tend to be very good appointments. Having friends who sit in many cities on many similar boards, I am just curious to know how many Hamiltonians you are considering appointing.

Ms Noé-Johnson: Mr Chairman, I can respond to that. There is no anticipation of increasing the size of the board, but to ensure that there is flexibility so that we do not come back for more amendments, we are merely asking that we limit the aldermanic participation and leave in the hands of council how many it feels the entire board should be made up of.

Mr J. Wilson: So council will establish a bylaw.

The Chair: Mr Drainville?

Mr Drainville: Actually, I was going to move that the question be put because of the very forthright nature of this bill, but since Mr Ruprecht has a question I will defer to him and then move that the question be put.

Mr Ruprecht: I think, Mr Drainville, we are on one side in this. I just wanted to congratulate the mayor for coming to Toronto and giving us his visit. Certainly all of us see that Mr Christopherson is the sponsor of it. I do not see any objection, Mr Drainville, on this one either. Congratulations.

The Chair: You gentlemen seem to be in accord.

Sections 1 to 4, inclusive, agreed to.

Preamble agreed to.

Title agreed to.

Bill ordered to be reported.

The committee adjourned at 1151.

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Substitution: Morrow, Mark (Wentworth East NDP) for Mr Farnan

Clerk: Decker, Todd

Staff:
Hopkins, Laura, Legislative Counsel
Klein, Susan, Legislative Counsel

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